



BNG Bank Undesirable Social Behaviour Complaints Rules and Policy

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Policy

The Executive Committee of BNG Bank declares that undesirable behaviour and offensive behaviour of a sexual or other nature between staff members will not be tolerated. BNG Bank expressly encourages staff to hold each other to account when they experience undesirable behaviour and to involve their direct manager to achieve appropriate solutions.

Everyone who believes they are the victim of undesirable behaviour can report this and get support from a confidential adviser. If they do so, their privacy will be safeguarded. Both internal and external confidential advisers² are available. For every report, the preference is for complainants to work with the confidential adviser to seek a solution through an informal process.

BNG Bank has adopted a preventative policy aimed at preventing and countering undesirable behaviour. If the parties involved cannot reach a solution, it is important to have rules that establish individual rights and set out careful procedures. The complaints rules set out below were written for that purpose.

Applicable legislation

Under the Working Conditions Act (Section 3), the employer is responsible for all employment-related aspects of the health and safety of its workers. To that end, the employer must establish a policy that aims to ensure the best possible working conditions, including the prevention of sexual harassment, aggression and violence. The employer is also responsible for prevention (both organisationally and through policies and regulations) and for providing care/support for victims (confidential adviser, education and information, and the role of managers). Section 658 of Book 7 of the Dutch Civil Code imposes a duty of care on employers with regard to the safety of the environment in which their employees work. Employers must take such measures and provide such instructions as are reasonably necessary to prevent employees from being harmed while carrying out their duties. In addition, Section 611 of Book 7 of the Civil Code states that employers and employees are required to conduct themselves as a good employer and a good employee. A similar provision applies to the competent authority and civil servants pursuant to Section 125b of the Central and Local Government Personnel Act. In certain circumstances, actions that are inconsistent with being a good employer can lead to liability on the part of an employer.

The legal framework for undesirable behaviour is also shaped by four statutes concerning equal treatment: the Equal Treatment Act, the Equal Treatment of Disabled and Chronically Ill People Act, the Equal Treatment (Men and Women) Act and the Equal Treatment in Employment (Age Discrimination) Act.

1 GENERAL

Clause 1: Definitions

1.1 In these rules, undesirable behaviour means: direct or indirect undesirable remarks or actions, which are expressed through verbal, non-verbal or physical behaviour towards a person, which are perceived by that person as undesirable and/or unwanted, and which constitute a violation of their integrity. Possible causes of undesirable behaviour that can lead to staff members feeling unsafe at work include:

i. intimidation and sexual harassment: any form of verbal, non-verbal or physical behaviour with an undertone, sexual or otherwise, that has the aim or consequence of diminishing the dignity of a person, in particular when it creates a threatening, hostile, offensive, humiliating or abusive situation;

ii. discrimination: treating one staff member differently to how another is, was or would be treated in a comparable situation, based on religion, philosophical beliefs, political opinions, race, gender, nationality, sexual expression, marital status, age, disability or chronic illness;

iii. aggression and violence: incidents in which a staff member is mentally or physically harassed, threatened or attacked;

iv. bullying: all forms of intimidating behaviour of an ongoing nature, by one or multiple staff members (colleagues or managers) against a single staff member or a group of staff members.

1.2 In these rules, the terms listed below have the following meanings:

staff member:

everyone who is a member of the staff of BNG Bank pursuant to an employment agreement or otherwise.

This includes staff supplied to BNG Bank by a temporary employment agency and staff working at BNG Bank as an intern or pursuant to a secondment agreement or any other arrangement;

competent authority:

the Executive Committee of BNG Bank;

complainant:

a staff member who submits a complaint to the Complaints Committee in accordance with these rules. A complaint may also be submitted by a former staff member or by a person deemed equivalent under these rules. A complaint may be submitted up to three years after the staff member leaves or otherwise stops working for BNG Bank;

subject of the complaint:

a staff member against whom a complaint relating to undesirable behaviour is submitted in accordance with these rules;

complaint:

a complaint raised by a staff member in accordance with these rules, relating to undesirable behaviour, as described in Clause 1.1, experienced in the context of the individual working environment. A complaint may be submitted up to three years after the date on which the complaint arose;

Complaints Committee:

the Undesirable Social Behaviour Complaints Committee, also referred to as 'the Complaints Committee' or 'the Committee', which is set up by the Executive Committee of BNG Bank in accordance with these rules;

confidential adviser:

an internal or external person appointed as such by BNG Bank and trained to support complainants following a complaint (or multiple complaints) of undesirable behaviour;

persons directly involved:

the complainant and the subject of the complaint, and their legal advisers where applicable. If the complainant is supported by both a legal adviser and a confidential adviser, the latter is also counted as a person who is directly involved;

persons involved:

all other people involved in the handling of the complaint, such as witnesses and experts;

decision:

the decision of the Executive Committee of BNG Bank, based on the advice provided by the committee;

representative advisory body:

the Works Council of BNG Bank.

1.3 The complaints rules apply to staff members of BNG Bank or persons deemed equivalent under these rules.

¹ Overall waar in dit klachtenreglement de mannelijke vorm wordt gebruikt, worden zowel de vrouwelijke als mannelijke persoon bedoeld.

² Overall waar in dit klachtenreglement de vrouwenspersoon wordt genoemd, worden als geen expliciet onderscheid wordt gemaakt zowel de interne als de externe vertrouwenspersonen bedoeld.

2 CONFIDENTIAL ADVISERS

Clause 2: Appointment of a confidential adviser

2.1 The Executive Committee of BNG Bank will appoint internal confidential advisers in consultation with the representative advisory body.

Clause 3: Duties, powers and responsibilities of a confidential adviser

3.1 At a minimum, a confidential adviser has the following duties, powers and responsibilities:

- acting as the point of contact for a staff member who is confronted with undesirable behaviour;
- providing care, support, information and advice to the staff member, concerning options for putting an end to the undesirable behaviour through solutions in an informal setting and referring them to a professional assistance service if necessary;
- attempting to find a solution by bringing in an expert or intermediary, such as a mediator, so that the undesirable behaviour is stopped;
- providing advice or assistance regarding any further steps to be taken by the staff member;
- providing support and guidance to a staff member confronted with undesirable behaviour by helping them submit a complaint to the Complaints Committee, as well as providing support during the staff member's hearing before the Committee;
- providing follow-up care to a staff member who is confronted with undesirable behaviour;
- providing solicited and unsolicited advice to BNG Bank concerning the policy relating to undesirable behaviour, based on issues and reports received;
- presenting a written report to the Executive Committee of BNG Bank on work performed in the previous calendar year, by no later than 1 March of each year. The report must be anonymous; personal data must not be included;
- engaging in dialogue with the Chair of the Executive Committee of BNG Bank (if necessary/placed on the agenda);
- in principle, a confidential adviser will not take any actions on behalf of a staff member without their prior permission.

3.2 Based on their professional responsibility and what can reasonably be expected of them, a confidential adviser may prematurely terminate their support of a staff member.

3.3 If a confidential adviser is considering premature termination of support, they must discuss this with the staff member in advance, unless the situation is such that the confidential adviser cannot reasonably be expected to do so. Furthermore, the confidential adviser must do whatever they can to ensure the staff member is referred to another confidential adviser and/or care provider.

Clause 4: Confidentiality

4.1 Confidential advisers have a duty of confidentiality with regard to all information obtained in the course of their duties, including after their support of the staff member ends, unless the law provides otherwise or a conflict of duties arises that places them in a moral dilemma.

Clause 5: Facilities

5.1 BNG Bank will provide the facilities required by confidential advisers for the proper performance of their duties. Furthermore, BNG Bank is responsible for ensuring that the confidential advisers are known within the organisation.

5.2 To carry out their duties as effectively as possible, confidential advisers may hold conversations with complainants within or outside of the BNG Bank buildings. In the context of their duties, confidential advisers may decide to hold conversations with people other than the complainant(s) who contacted them.

5.3 When dealing with a report or complaint, confidential advisers have an opportunity to gather information about general matters relating to BNG Bank as well as the specific matters relating to the report or complaint.

5.4 Confidential advisers are authorised to consult external experts. They will do so in consultation with the relevant delegated manager or the Chair of the Executive Committee of BNG Bank. This means that, where appropriate, BNG Bank will free up money in the budget to pay these external experts.

3 UNDESIRABLE SOCIAL BEHAVIOUR COMPLAINTS COMMITTEE

Clause 6: Appointment and composition of the complaints committee

- 6.1** The Executive Committee will set up an external Undesirable Social Behaviour Complaints Committee. This external Complaints Committee will be put together by Bezemer & Schubad, Wijnhaven 46, 3011 WS Rotterdam.
- 6.2** The Committee will consist of at least two members, including a chair. They will have sufficient legal expertise, as well as sufficient expertise relating to undesirable social behaviour: the Committee will include at least one legal advisor and one behavioural specialist. The Committee will be supported by a secretary who is not a member of the Complaints Committee and whose duties include reporting and drafting opinions.

Clause 7: Duties, powers and responsibilities of the Committee

- 7.1** The duties of the Committee include:
- a.** expressing a view on the admissibility of the complaint;
 - b.** investigating the complaint(s) of undesirable social behaviour;
 - c.** issuing an opinion about the complaint(s) to the Chair of the Executive Committee of BNG Bank.
- 7.2** In preparing its opinion, the Committee is free to hear from any person and gather all necessary information as it sees fit. Information requested by the Committee may be withheld only if providing it would breach the privacy of another staff member, unless the other staff member does not object to being involved in the matter.
- 7.3** The Committee may consult and/or engage internal and external experts.

- 7.4** The Committee may provide solicited and unsolicited advice to secure interim relief, if:
- a.** it is necessary for the well-being of the complainant;
 - b.** the situation is untenable for one or more of the persons directly involved;
 - c.** it is deemed necessary for the progress of the investigation.

- 7.5** The Committee will issue an opinion on the merits of the complaint, stating reasons, and advise on the measures that should be taken.

Clause 8: Objections to and recusal of Committee members

- 8.1** The members of the Committee may not be involved, either directly or indirectly, in the matter about which the complaint is being brought.
- 8.2** If a member of the Committee is involved, the complainant and/or the subject of the complaint may object to them serving on the Committee (request that they be replaced). Such an objection must be submitted to the Committee in writing and supported by strong arguments. The submission of an objection of this nature will result in the suspension (interruption) of the procedure. Members of the Committee can recuse themselves (ask to be replaced) at any time.
- 8.3** The Committee will make a decision on an objection submitted in accordance with the second paragraph. In the event of a successful objection and/or recusal, the Committee member in question will be replaced by another expert.
- 8.4** After the Committee has made its decision on the objection, or after a member of the Committee has recused themselves and been replaced by another expert, the procedure will resume at the stage it had reached.

4 SUBMISSION OF A COMPLAINT

Clause 9: Format requirements

- 9.1** A complaint must be submitted to the Committee in writing by the complainant, with guidance from a confidential adviser if necessary, and must contain, at a minimum:
- a.** a description of the complaint in the Dutch language, including an indication of the period over which the events in question took place;
 - b.** the name(s) of the subject(s) of the complaint;
 - c.** a description of all of the steps taken by the complainant;
 - d.** the complainant's name and address;
 - e.** the date of the complaint;
 - f.** the complainant's signature.
- 9.2** The complaint must be in writing, marked **confidential** and **personal**, and addressed to the Secretary of the Committee. A complaint submitted in writing is referred to hereinafter as a 'letter of complaint'. The complaint should be sent to: the external secretary of the BNG Bank Undesirable Behaviour Complaints Committee, c/o Bezemer & Schubad, Wijnhaven 46, 3011 WS Rotterdam.
- 9.3** Anonymous complaints will not be considered.
- 9.4** The secretary of the Committee will send the complainant confirmation of receipt and a copy of the Undesirable Behaviour Complaints Rules, if they have not already been sent to the complainant.

Clause 10: Timeframe

- 10.1** In principle, a complaint may be submitted up to three years from when the undesirable behaviour occurred. The Committee may decide to deviate from this timeframe if justified by the circumstances.

5 ADMISSIBILITY OF A COMPLAINT

Clause 11: Admissibility and decision-making timeframe

- 11.1** If the requirements set out in Clause 9 are not met, the complaint may be deemed inadmissible, provided the complainant has had an opportunity to rectify the omissions within a timeframe set by the Committee.
- 11.2** The Committee will decide within four weeks from the submission of a complaint whether the complaint is admissible and whether it will be considered and will send a written notification to this effect to the person who submitted the complaint.
- 11.3** The Committee is not required to consider a complaint if it relates to behaviour:
- a.** about which a complaint was previously submitted and considered in accordance with these rules;
 - b.** that took place more than three years before the submission of the complaint, unless it is a complaint relating to sexual harassment and/or a complaint that the Committee decides should nevertheless be considered;
 - c.** to which the complainant could have objected;
 - d.** in respect of which the complainant could have brought legal proceedings;
 - e.** that, due to the initiation of proceedings, is or was subject to the judgement of a judicial body other than an administrative tribunal; or
 - f.** in respect of which a prosecution or an investigation ordered by the Public Prosecutor is ongoing, or if the behaviour is part of the investigation or prosecution of a criminal offence, for as long as the prosecution or investigation ordered by the Public Prosecutor in respect of that offence is ongoing.
- 11.4** The Committee is not required to consider a complaint if the interests of the complainant or the gravity of the behaviour are clearly insufficient.

6 CONSIDERATION OF COMPLAINTS BY THE COMMITTEE

Clause 12: Written confirmation of consideration of a complaint

- 12.1** The secretary will confirm to the complainant by return of post (and within a week) that the complaint has been received.
- 12.2** The secretary will forward the complaint to the Committee in a confidential manner.
- 12.3** The complaint may be withdrawn by the complainant at any time up until the submission of the Committee's report to the Chair of the Executive Committee. If the complaint is withdrawn, the Committee will immediately cease all consideration of it.

Clause 13: Preliminary investigation

- 13.1** After receipt of the complaint by the Committee, the Chair will order a preliminary investigation. The Chair may delegate the preliminary investigation to the secretary.
- 13.2** The Committee will investigate whether the complaint is admissible according to the complaints rules. In that context, the Committee may conduct an exploratory interview (hearing) with the complainant.
- 13.3** During the preliminary investigation, if it transpires that:
- a.** the complaint originated from a person who does not have standing to submit a complaint;
 - b.** the letter of complaint does not meet the requirements set out in the complaints rules, and the complainant did not use the opportunity to rectify the incompleteness of the complaint, or did not do so in a timely manner;
 - c.** or the complaint is obviously unfounded or not sufficiently serious, or relates to a situation as described in Clause 11;
- the Chair of the Committee may issue a final decision, without further investigation and without holding a hearing. This decision may be that the complaint is inadmissible, that the complaint will not be considered or that the complaint is being rejected. The final decision must be in writing, stating reasons.

- 13.4** If the complaint is inadmissible, will not be considered or has been rejected, the Committee will notify the complainant and the Chair of the Executive Committee of BNG Bank, stating reasons.
- 13.5** If the complaint is declared admissible and will be considered, the investigation will proceed in accordance with the procedure and principles set out below.

Clause 14: Investigation and hearings

- 14.1** When the Committee is investigating a complaint, BNG Bank must appoint a staff member to act as a contact person for the Committee. As a general rule, this staff member will provide the Committee with information on request, such as the addresses of the people the Committee wishes to invite to hearings.
- 14.2** If the complaint is admissible and will be considered, both the complainant and the subject of the complaint will be heard, unless they notify the Committee in writing that they waive the right to be heard. The complainant and the subject of the complaint will not be present during each other's hearings, unless both have expressly indicated that they wish to be heard in the presence of the other party.
- 14.3** The Committee will invite the complainant to attend an initial hearing.
- 14.4** The subject of the complaint will be notified of the fact that a complaint has been submitted against them. The Chair of the Executive Committee of BNG Bank will be consulted with regard to how the subject of the complaint will be informed of the complaint, and the subject will then be invited to attend an initial hearing.
- 14.5** At a minimum, the secretary and two members of the Committee, including the Chair, will be present at each hearing. Committee hearings are closed to the public. A report will be drawn up for each hearing. The report will be signed by the subject of the hearing to indicate agreement; they may also add comments if they choose.
- 14.6** The complainant and the subject of the complaint may be supported at all committee hearings by a legal adviser (preferably not by a family member, close colleague or manager).

- 14.7** After the two initial hearings described above, the Committee may decide, at the request of the complainant or the subject of the complaint or otherwise, to hear from other people (such as third parties, experts and/or witnesses). Any persons involved who work for BNG Bank have a duty to appear. If they refuse to do so, the Committee will notify the Chair of the Executive Committee.
- 14.8** People who appear before the Committee, as well as the confidential adviser, the Committee members and the secretary, are obliged to maintain confidentiality with regard to everything discussed with them and everything they know about the complaint.
- 14.9** Based on the course of the investigation, the Committee may recommend to the Chair of the Executive Committee of BNG Bank that interim measures be taken, insofar as this is in the interests of the investigation or is required due to the position of the persons involved in the investigation.
- 14.10** If desired or necessary, the Committee will invite the complainant and the subject of the complaint to a second hearing. Before the second hearing, the complainant and the subject of the complaint will be given access to all documents and reports relating to the consideration of the complaint, unless, in the Committee's view, there are compelling reasons not to make these available.
- 14.11** At the end of the investigation and before the Committee drafts its final report, the complainant and the subject of the complaint have the right to view all documents relating to the complaint, in accordance with the General Data Protection Regulation (GDPR) and the General Data Protection Regulation Implementation Act (UAVG).
- 14.12** When the Committee believes it has sufficient information, it will close its investigation and form an opinion on the complaint.

Clause 15: Committee investigation

- 15.1** Committee hearings are closed to the public.
- 15.2** The Committee may decide to record the hearings. The recordings will remain in the possession of the Committee and will be destroyed once the case is closed.
- 15.3** The Committee may use all relevant information.
- 15.4** The Committee will consider a complaint as speedily as possible, to the extent that that is compatible with following a careful procedure.
- 15.5** If multiple complaints are submitted about one person, the complaints will be considered together, if the Committee believes this would be appropriate.

Clause 16: Informal process

- 16.1** At any phase of the complaints procedure, the Committee can contact the complainant and the subject of the complaint to check whether alternative forms of dispute resolution, such as mediation, might be possible. The complainant and the subject of the complaint will make their own decisions about whether they wish to participate in any alternative forms of dispute resolution.
- 16.2** During mediation, the Committee will place the complaint on hold. Once the mediation has ended, the complainant will inform the Committee of whether the complaint will be withdrawn or whether the Committee should continue to consider the complaint.

7 REPORTS AND OPINIONS

Clause 17: Committee opinions

- 17.1** Within eight weeks after a complaint is deemed admissible, the Committee will issue a written report to the Chair of the Executive Committee of BNG Bank. When the Committee delivers its report to the Chair of the Executive Committee of BNG Bank, it will notify the complainant and the subject of the complaint that it has done so.
- 17.2** At a minimum, the Committee's opinion will include the following:
- a.** details about the complainant and the subject of the complaint and their hierarchical or functional relationship to each other;
 - b.** the content of the complaint;
 - c.** the grounds on which the complaint is declared to be justified or unfounded.
- 17.3** If warranted by the complaint, in addition to the information in Clause 17.2, the opinion may also contain:
- a.** a recommendation to the Chair of the Executive Committee of BNG Bank about a measure to be taken or penalty to be imposed within the statutory provisions and/or collective employment agreement applicable to BNG Bank;
 - b.** a recommendation about the follow-up process.
- 17.4** If the eight-week timeframe cannot be adhered to, the Chair of the Executive Committee, the complainant and the subject of the complaint will be notified of this, along with the reasons for the delay and an indication of the new expected timeframe.
- 17.5** At the end of the complaint investigation, the Committee will hand over the entire case file including the reports from the hearings to the Chair of the Executive Committee of BNG Bank, unless the Committee has serious objections to doing so. If that is the case, the Committee will notify the Chair of the Executive Committee of BNG Bank.

Clause 18: Reporting

- 18.1** Each year, if work has been performed for BNG Bank, the Committee will present a written report to the Executive Committee by no later than 1 March about its work in the previous calendar year. The report will not contain any personal data. De rapportage geschiedt zonder vermelding van persoonlijke gegevens.

8 DECISIONS

Clause 19: Executive Committee decisions

- 19.1** Within four weeks after the Committee releases its report, the Executive Committee of BNG Bank will issue a written decision, stating reasons. The decision will be sent to the complainant and the subject of the complaint directly. A copy of the decision will be sent to the Committee.
- 19.2** If the Executive Committee of BNG Bank deviates from the Committee's recommendation, it will explain in its decision why it did so.
- 19.3** When a complaint is declared to be justified, one or more measures may be imposed on the subject of the complaint. Measures may also be taken in respect of the complainant, to create a safe working environment.

9 DUTY OF CONFIDENTIALITY

The members of the Committee, as well as the secretary and everyone else involved in the handling of a complaint procedure, including the complainant, the subject of the complaint and third parties (such as experts and witnesses), are obliged to maintain confidentiality with regard to everything that comes to their knowledge.

CHAPTER 10: FINAL PROVISIONS

Clause 20: Disadvantage

20.1 No staff member will be adversely affected in their position at BNG Bank because they were involved in any way in a complaint procedure as described in these rules. This does not apply to any measures taken against the subject(s) of a complaint that was declared to be justified.

Clause 21: False complaints

21.1 If the Committee believes that a false complaint was deliberately submitted, the Committee will inform the Chair of the Executive Committee of BNG Bank. The Committee is not authorised to investigate further.

Clause 22: Unforeseen circumstances and complaints against the highest competent authority

22.1 If circumstances arise that are not covered by these rules, the Executive Committee will decide how to proceed, on the advice of the Complaints Committee.

22.2 If a complaint is laid against the Executive Committee of BNG Bank, which represents the highest competent authority within BNG Bank, the Committee will present its opinion to the superior competent authority, namely the Chair of the Supervisory Board of BNG Bank.

Clause 23: Archiving of complaint information

23.1 Five years after an opinion is issued, the case files relating to a complaint procedure will be removed from the archive of the Committee's secretariat and destroyed.

Clause 24: Official title and effective date

24.1 These rules may be referred to as the 'Undesirable Social Behaviour Complaints Rules'.

24.2 These rules have been adopted by the Executive Committee and will take effect on 2 January 2023.



Driven by social impact

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