

## **D-ARCH Care and Complaint Network and Process**

Version: 10.05.2023

### *Executive Summary*

Within the complex framework of what labour law and other legal principles allow, and integrated the central ETH complaint procedures (consisting of an informal and a formal phase), these are the lines of actions that D-ARCH takes:

### **WHAT: THREE ACTION PILLARS**

1. **Setting up a care and support system around existing ETH procedures & lowering threshold to speak up and find help:** providing accessible advice, support and proximity. **Result:** complainants get help to assess a situation, feel well-informed and get a realistic picture on what can be done, and feel heard, taken seriously and supported. Those in doubt about their behaviour or who have trespassed the code of conduct also receive care and support.
2. **Taking up an active role in the informal phase of the ETH procedures:** informing, mediating, setting up conversations, taking informal actions. **Result:** informal actions being taken, lowering risk of recurrence problem and lowering need for formal phase.
3. **Avoiding incidents by building an ongoing learning culture:** the informal phase is limited to confidential informal conversations and warnings, and the possibility of formal sanctions and warnings is limited. Yet the input will be fed back into the department through training and workshops (learning culture). **Result:** feedback loop to prevent and grow rather than sanction and remediate.

### **WHO: THREE INFRASTRUCTURAL PILLARS**

1. **Network of trained confidence persons:** first responders of different positions within the D-ARCH community that are easy to find. They take no further responsibility but to offer first care, give advice and redirect.
2. **Care and Complaint Officer:** brings deep knowledge and skills specific to complaint work to the D-ARCH community: advises, mediates, gives coaching and takes up an executive role in following up certain cases in the informal phase. Works incident-specific but also towards larger cultural change and coaching.
3. **Department leadership (dedicated team):** securing a safe and inclusive working and learning environment is an institutional responsibility. It is ultimately up to the leaders to step in when needed in the informal phase and set the standards. Oversees the Care and Complaint Network together with PDK.

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### **Context**

Time and again institutions struggle to maintain an effective complaint procedure. We expect inappropriate behaviour to be met with swift and decisive action. However, complaints can only be dealt with within the framework of employee rights and other legal principles.

Our justice system for instance is built on the principle of innocence: we would rather let ten perpetrators go, than lock up one innocent person. Those accused have the right to the best possible defence, and therefore entitled to full disclosure of what they are being charged with. This compromises the anonymity and confidentiality of the complainant and puts the burden of proof on them: without evidence of the wrong being done, it is hard to make a case. For a complaint to be valid it also needs to be filed within a reasonable time frame, despite scientific research showing that in the case of transgressive behaviour, victims often need months, sometimes years to come to terms with what happened to them and to be able to speak up. Often important proof and documents are lost before even realising that one was subjected to abuse.

Next to these basic legal principles, institutions also work within the framework of social law and employee rights. The protection of employees against arbitrary treatment or dismissal by their employer is the invaluable outcome of decades of social struggle. However, in the case of complaints, the protection of employees, also with regard to keeping data as stipulated in privacy laws, again puts the burden onto the complainants.

This is further complicated by the fact that legal and social protection unfortunately don't protect everyone in equal measures. They often disproportionately protect those already in power or in a secure position. So in this sense they exacerbate the kind of inequalities and imbalances that often give rise to abusive and inappropriate situations in the first place.

It is within this context that an institution as ETH has to set up efficient reporting, remediation and intervention structures and procedures. It is therefore important to always take this legal and social protection framework into account.

### **ETH framework**

ETH has a reporting and resolution (complaint) procedure consisting of an informal and formal phase. [This](#) short video offers a good and concise explanation of this ETH procedure.

The informal phase aims at solving problems before the formal complaint procedure. It envisions finding a solution that is satisfactory for all parties involved.

The formal complaint procedure has several legal requirements and the complainant's identity will be revealed to guarantee the person accused's right of optimal self-defence. To protect the victim or complainant against this long and intricate legal process, this option is only recommended in case of serious or repeated abusive behaviour and when informal actions have proven ineffective.

See [here](#) for more information on the regulations on the reporting by ETH Zurich members of inappropriate behaviour. You can find the information sheet on reporting appropriate behaviour for employees and professors [here](#) and for students [here](#). Since April 1st, ETH has outsourced its reporting office for the formal phase. This reporting office only accepts written complaints and can only be contacted in the informal phase in case of severe incidents. An anonymous reporting form is put in place, but is very limited. All the information can be found [here](#).

Apart from this procedure on inappropriate behaviour, ETH also has a procedure on conflicts of interest, research integrity and authorship conflicts as stipulated in the [compliance guide](#).

### **D-ARCH Care & Complaint Network**

The D-ARCH Care and Complaint Network aims to lower the threshold to these existing ETH procedures, and to set up a care and support structure around it. The network also allows to engage with topics that are not addressed in any ETH procedure but stipulated in the D-ARCH Code of Conduct and thus of importance to the specifics of the D-ARCH working and learning environment.

The Care and Complaint Network has **three action pillars** (*what does it do*):

1. **Setting up a care and support system around existing ETH procedures & lowering threshold to speak up and find help:** providing accessible advice, support and proximity. **Result:** complainants get help to assess a situation, feel well-informed and get a realistic picture on what can be done, and feel heard, taken seriously and supported. Those in doubt about their behaviour or trespassed also receive care and support.
2. **Taking up an active role in the informal phase of the ETH procedures:** informing, mediating, setting up conversations, taking informal actions. **Result:** informal actions being taken, lowering risk of recurrence problem and lowering need for formal phase.
3. **Avoiding incidents by building an ongoing learning culture:** the informal phase is limited to confidential informal conversations and warnings, and the possibility of formal sanctions and warnings is limited. Yet the input will be fed back into the department through training and workshops (learning culture). **Result:** feedback loop to prevent and grow rather than sanction and remediate.

And to this end, maintains **three infrastructural pillars** (*who does the work*):

#### **1 Network of trained confidence person**

First responders of different positions within the D-ARCH community, They have a reference and orientation function, inside and outside ETH, take no further responsibility but to offer first care, give advice and redirect. They inform on procedures, regulations, options. They register anonymised meta-data of complaints and keep confidentiality and discretion. They have high standards of integrity and always work with consent of the complainant.

### Guidelines for operational organisation<sup>1</sup>:

*This network consists of people in different positions in D-ARCH (exact constitution, way of appointing, duration of term, remuneration to be defined) and*

- *are first-responders that lower the threshold to speak up/whistle blow;*
- *receive training on implicit bias, sexual harassment, communication skills, and commit to gaining basic knowledge of ETH regulations and procedures, and the legal framework of social and labour law, Equality Act, Criminal Law;*
- *regularly exchange with each other (interview) and are coached by the Care and Complaint Officer (see next pillar).*

## **2 Care and Complaint Officer**

The crucial backbone of the Network, bringing skill and expertise on complaint work to the D-ARCH community: advising, mediating, coaching, coordinating trainings and taking up an executive role in certain cases in the informal phase. The Care and Complaint officer collects meta-data, makes annual reports and proposes strategies for a long-term culture change, including a regular revision of the Code of Conduct. The Care and Complaint Officer works from within D-ARCH, but remains a close proximity to the ETH central administration.

### Guidelines for operational organisation<sup>1</sup>:

*The Care and Complaint Officer has:*

- *a profound and strategic knowledge of ETH regulations and procedures, the relevant legal framework (e.g. social and labour law, Equality Act, Criminal Law);*
- *profound knowledge on gender, diversity and parity;*
- *no other role at D-ARCH that challenges impartiality.*

## **3 Department leadership**

They are role models and show exemplary practice in integrity and good governance to secure a safe and inclusive working and learning environment. They embody and support a culture of respect and speaking up.

### Guidelines for operational organisation<sup>1</sup>:

*The Department Leadership:*

- *appoint one member to take the lead in Complaint work, together with the head of the Dean's Office;*
- *receive training on implicit bias, sexual harassment, communication skills, and commit to gaining basic knowledge of ETH regulations and procedures, and the legal framework of social and labour law, Equality Act, Criminal Law;*

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<sup>1</sup> The presented guidelines merely serve as information/outlook. The operational structures and process need further discussions and executive decisions and alignment with the overall organisational network of ETH and operational feasibility considerations. The final decision on operational organisation is due by the end of 2023.

- *establish an exchange with the Care and Complaint Officer on a regular basis to discuss and support in difficult cases, receive yearly reports and get advised on training and learning urgencies; they execute the yearly training and learning plan;*
- *act in cases of obvious breaches of the code of conduct by expressing disapproval, and giving informal and oral warnings.*

## **D-ARCH Care & Complaint Process**

The Care and Complaint Network acts in line with a set of *premises/principles*, and follows a series of steps in a *process* that structures its actions.

### *Premises*

**Confidentiality.** The Care and Complaint Network honours a strong integrity and ethics, keeping confidentiality at all times, unless legally required otherwise, for instance in cases of infractions of criminal law. Under confidentiality we understand that the names of the involved people can be shared but only among a strictly demarcated group of people, and only when needed to be able to assess or act upon a situation. (This group is limited to the involved confidence person(s), the Care and Complaint Officer and if applicable, the dedicated department leadership and/or other implicated supervisors.) However the complainant can request to remain anonymous in the informal phase. Once the complainant makes the decision to go on to the formal phase (ETH) this anonymity is no longer possible.

**Abuse is no conflict.** The Care and Complaint Network is built upon the premise that abuse is no conflict. An interpersonal or professional conflict, for instance a difference of opinion on how to execute a task or a disagreement on responsibilities, can be resolved by mediating between the two conflicted parties; a situation of inappropriate behaviour or discrimination however is of a different nature. In these cases it is the department that has failed to provide its employees with a safe and healthy work and learning environment and it is therefore its responsibility to solve the problem or at least prevent its recurrence. In cases of abuse, the person(s) being harmed may rightfully not desire mediation or conflict resolution, and may be more concerned about the department (1) acknowledging the wrong being done, (2) speaking up against it, (3) preventing its recurrence, and (4) securing behavioural change.

**Documentation.** For reasons of data protection and privacy law, The Care and Complaint Network cannot document or archive complaints containing personal details about employees and students. However, complainants can. Therefore The Care and Complaint Network will always urge complainants to document themselves what has happened to them or others, to keep a timeline, and to archive all relevant communication concerning the incident in their private files. At departmental level, The Care and Complaint Network will archive and keep track of the nature of complaints, omitting all personal details, as meta-data, only in order to detect the learning needs of staff and students at the department.

**Relationship between supervisors and The Care and Complaint Network.** It is always an option for complainants to contact their supervisors instead of a confidence person or the Care and Complaint Officer. However, we encourage complainants to *also* contact the Network, to help assess a situation and detect the learning needs of the department. At the

same time the Care and Complaint Officer will be available to help supervisors to assess situations and get advice when needed. It will thus be important to establish a connection between people in supervising or leadership roles in D-ARCH and The Care and Complaint Network, to exchange and offer support when relevant.

**Training and culture.** The Care and Complaint Officer will organise training and formation for the dean, head of dean's office and PDK in order for them to be skilled in questions of parity, diversity and integrity. The Care and Complaint Officer will also advise and support the dean and the head of the dean's office in matters of remediation, informal oral warnings and difficult conversations. The Care and Complaint Officer will make a yearly report and analysis of the complaints and identify the need for training and formation for staff, professors and students. Finally The Care and Complaint Officer will yearly revise and disseminate the code of conduct through workshops and other activities.

## **Process**

The D-ARCH Care and Complaint Network is a service offered to all, especially to people who feel that they have been a victim of inappropriate behaviour, who have witnessed inappropriate behaviour and people in doubt about their own behaviour.

### Guidelines for operational process<sup>1</sup>:

- 1. In case of breaches of the Code of Conduct, both victims and bystanders first always try to immediately stop it. They document what has happened.*
- 2. In case it was impossible to stop, in case of repeated breaches or in case of serious misbehaviour, a confidence person is contacted. It is also possible to contact a supervisor, or to decide with the supervisor to contact a confidence person together.*
- 3. Upon first contact, the confidence person instructs the complainant to document what has happened (who, when, what, repeated behavior or not, reactions). They assess the situation together and the confidence person gives input on ETH framework (all frameworks, including on mental health), explains what D-ARCH can and can not do, checks if case can be confidentially shared with Care and Complaint Officer. After the meeting, the confidence person anonymously registers the nature of the case (meta data: when, what, repeated behaviour or not, reactions)*
- 4. If breaches of criminal law have occurred, the confidence person immediately informs the Care and Complaint Officer and the department leadership.*
- 5. The confidence person gets back to the complainant with a proposal to act. The action happens when the complainant agrees to it. Depending on the action needed, the Care and Complaint Officer takes over the communication from the confidence person. The confidence person can remain present, but rather as a buddy for the complainant, if needed.*
- 6. If the formal phase needs to be started, the Care and Complaint Officer helps to assess this.*