

NAI COMPLAINTS SCHEME REGARDING NAI MEDIATIONS

Article 1 – Definitions

In the present complaints scheme, the terms below are defined as follows:

- (a) Code of Conduct: the Code of Conduct adopted by the NAI for NAI mediators;
- (b) complaint: any written expression of discontent with a mediator's performance as such, communicated by or on behalf of the complainant to the NAI, in accordance with Articles 3.1 and 3.2 of this Complaints Scheme;
- (c) complaint handler: the person designated by the Director in consultation with the Executive Board of the NAI who is charged with the handling of a complaint;
- (d) complainant: the party involved in a mediation procedure or its representative that files a complaint;
- (e) mediator: the mediator appointed by the NAI against whom the complaint is directed;
- (f) NAI: the Netherlands Arbitration Institute (*Stichting Nederlands Arbitrage Instituut*), with its registered office in Rotterdam, the Netherlands;
- (g) NAI-officer: the person mandated by the Director of the NAI who is charged with the administrative handling of a complaint;
- (h) Rules: the Mediation Rules adopted by the NAI;
- (i) Disciplinary Committee: the disciplinary committee as defined in Article 1 of the *Reglement Stichting Tuchtrechtspraak Mediators*.

Article 2 – Purpose of the complaints scheme

The purpose of this complaints scheme is to provide for low-threshold solution of complaints with regard to non-compliance by the mediator with his obligations under the Rules, any other applicable (statutory) rules or any code of conduct.

Article 3 – Procedure

- 3.1 Complaints will only be accepted for handling if they are filed in writing with the NAI within twelve months after the mediation that gave rise to the complaint has ended in accordance with Article 7 of the Rules.
- 3.2 The complaint must in any case include:
 - the complainant's name, address, postal code, town/city, telephone number and may include his fax number and e-mail address;
 - the name of the mediator;
 - the mediation agreement, if available;
 - a brief description of the mediation in question;
 - the end date of the mediation;
 - a brief description of the complaint.
- 3.3 The NAI-officer will record the date of receipt of the complaint. The NAI-officer will send the complainant confirmation of receipt within one week and will send the complaint to the mediator in question within one week. The NAI-officer will include the name of the intended complaint handler. The complaint handler, complainant and mediator will be asked to report within two weeks whether any ties exist that would bar impartial handling of the complaint. If so, the NAI-officer will engage another complaint handler without delay. Within three weeks of receipt of the complaint, the NAI-officer will transmit the complaint to the complaint handler. The NAI-officer will place the complaint at the disposal of the complaint handler.
- 3.4 Within one week of receipt of the complaint, the complaint handler will confer with the complainant to establish whether the complainant desires the handling of his complaint under this Complaints Scheme. If this is not the case, the complaint handler will discuss the possibility of the procedure before the Disciplinary Committee. The complaint handler will notify the complainant, mediator and the NAI in writing within two weeks after receipt of the complaint as to whether or not the complaint has been accepted for handling.
- 3.5 If the complainant opts for complaint handling, the complaint handler shall handle the complaint adequately. He will hear the complainant and the mediator. The complaint will be fully handled within six weeks after the complaint handler received the complaint. The

- complaint handler may extend this period once by at most four weeks. If the complainant and the mediator agree, the complaint may be handled over the telephone.
- 3.6 The complaint handler shall make best efforts to achieve a satisfactory outcome with regard to the complaint. The complaint handler is not authorised to make a binding decision or impose sanctions. If so requested, the complaint handler may make recommendations or state his opinion on aspects of the complaint. However, no rights may be derived from any such recommendations and opinions.
- 3.7 The complaint handler will properly record the date on which he received the complaint from the NAI, as well as the procedure followed by him, including any agreements made with the complainant and/or the mediator, and will send any agreements made to the complainant and the mediator. When the complaint handling has been completed, the complaint handler will send a written notice of completion to the complainant, mediator and the NAI.
- 3.8 The complaint handler will point out to the complainant and the mediator in the written notice of completion that, in so far as the complaint relates to an alleged breach of the Code of Conduct, the complainant may submit the same to the Disciplinary Committee up to six months after completion of the complaint handling procedure, with due observance of the *Reglement Stichting Tuchtrechtspraak Mediators*.
- 3.9 The NAI will bear the costs of the complaint handler. Any costs incurred by the complainant and the mediator themselves shall be for their own account.
- 3.10 Upon completion of the complaint handling procedure, the complaint handler will destroy all documents related to the complaint handling procedure.

Article 4 – Closed procedure and confidentiality

- 4.1 The mediator and the complainant shall be released from their duty of confidentiality in accordance with Article 10 of the NAI Mediation Rules 2017 in so far as necessary to handle the complaint.
- 4.2 The complaint handler is obliged to keep secret all information disclosed to him in the course of handling the complaint. This obligation also applies to the Executive Board of the NAI and the NAI-officer. This obligation shall not apply in so far as the complaint handler already possessed, or could have possessed, such information independently of the claim.
- 4.3 The information exchanged during the handling of the complaint is confidential. Any agreements as referred to in Article 3.7 are not confidential and may be submitted in any disciplinary procedure, unless the parties agree otherwise.
- 4.4 The complaint shall be handled in a closed procedure.
- 4.5 If a complaint handler should be called in any procedure before the *Stichting Tuchtrechtspraak Mediators* he shall make no statement, other than in the event referred to in Article 10(c) of the Rules.
- 4.6 Both the complainant and the mediator may engage assistance in the complaint handling procedure. The complainant and/or mediator who have engaged assistance shall guarantee that the individual providing the assistance will fully comply with the duty of confidentiality as set out in Article 10 of the NAI Mediation Rules.

Article 5 – Internal information and archiving

- 5.1 After the complaint has been handled, the NAI will archive the original complaint and a photocopy of the written notice of termination for a period of three years. The other documents will be destroyed.
- 5.2 The NAI-officer will keep a list of all complaints received. The Director of the NAI will inform the Executive Board of the NAI annually and anonymised of the handling of complaints received by the NAI.

Article 6 – Final provisions

This Complaints Scheme is adopted and may be revised by the NAI. In cases for which this Complaints Scheme makes no provision, the Executive Board of the NAI shall decide.