



Ombudsman Aruba

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Guidelines on proper conduct

Based on Article 3, paragraphs 2 and 3 of the Ombudsman Act (AB 2020 no. 145), hereinafter referred to as the LvO, the Ombudsman is required to establish the standards of proper conduct and ensure their publication. The standards of proper conduct provide a framework for the Ombudsman to assess whether a complaint is well-founded or unfounded. The elaboration and application of these standards are further explained in the guidelines on proper conduct (*behoorlijkheidswijzer*).

The Ombudsman's role is to act as an independent and impartial body to safeguard the propriety of government actions and other institutions, and to strengthen the legal position of citizens.

In line with this objective, the legislator has expanded the scope of the law, as laid down in Article 1 of the LvO.

As a result, the scope of the law includes not only administrative bodies and public legal entities, but also other institutions that operate directly or indirectly as extensions of the government, where citizens are in a position of dependency with respect to these institutions. These institutions perform public tasks and/or belong to the government in the broad sense.

In this context, the legislator has also stipulated that the Ombudsman is authorized to handle complaints regarding utility companies and private (law) organizations that perform tasks of general interest and receive financial contributions from public funds.





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In addition, organizations that are responsible for tasks concerning children and youth (anyone up to and including 17 years of age) and related to education, youth care, childcare and healthcare, also fall under the scope of the law.

Besides the aforementioned administrative bodies, public legal entities, and private (law) organizations, a complaint may also be filed against any person who is or was working under the responsibility of these institutions (so even after the termination of their employment).

In the guidelines on proper conduct, the term “institution” therefore refers to: administrative bodies, public legal entities, and private (law) organizations that perform tasks of public interest that may or may not receive financial contributions from public funds, private law organizations tasked with duties concerning children and youth (anyone up to and including 17 years of age) that perform tasks with education, youth care, childcare and healthcare, as well as all persons who are (or have been) employed by these institutions.

In general, institutions must, in carrying out their duties:

- treat citizens and their interests in a proper manner;
- take citizens seriously and treat them with respect;
- avoid functioning as impersonal bureaucracies; and
- take into consideration the individual circumstances and the purpose of the law.

This means that institutions must consider the specific circumstances of each case and establish direct contact with both the citizen and other relevant parties.





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Institutions:

- strive to prevent problems with citizens, or;
- resolve problems through effective communication;
- interact with citizens on a basis of equality;
- provide citizens with clear and timely information; and
- act on the basis of trust.

For citizens and institutions to interact effectively, it is essential that citizens also adopt a constructive attitude and take responsibility. Thus, reciprocity in proper conduct is crucial to prevent potential unpleasant situations.

These guidelines on proper conduct provide an overview of the standards and principles that serve as guiding values for proper conduct by institutions. Using the guidelines on proper conduct, everyone—within their own role and position—can assess whether the actions of institutions comply with these standards.

The standards of proper conduct are the leading criteria in assessing a complaint against an institution. The guidelines on proper conduct contain **four (core) value principles**, subdivided into **twenty-two standards**.





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E four (core) value principles are:

1. Open and clear



2. Respectful



3. Involved and solution-oriented



4. Sincere and reliable





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The (core) standard '**open and clear**' consists of 4 components: transparency & proper information, listening to citizen, proper justification, accessible and reachable.



An institution is '**respectful**' if it: respects the fundamental rights of the citizen, treats the citizen decently, and takes into consideration the principles of fair play, right to a fair hearing, proportionality, and special duty of care.



'**Involved and solution-oriented**' means that an institution provides customized service, collaborates, adopts a flexible attitude, acts promptly and works in a de-escalating manner.



The (core) standard '**sincere and reliable**' consists of seven components: integrity, legal certainty, impartiality, reasonable, proper preparation, sound administrative organization, and professionalism.





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OPEN AND CLEAR

1. Transparency & proper information

Institutions must be open and provide clear, accurate information.

Institutions must be open and predictable in their actions and must also ensure that citizens receive accurate information so that it is clear to them why certain actions and decisions are taken.

2. Listening to the citizen

Citizens should feel heard and acknowledged because institutions listen to them. Listening should not only be limited to what the citizen explicitly says, but also to what is left unsaid. Citizens must be taken seriously, and institutions should show genuine interest in what matters to them.





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3. Proper justification (of decisions)

Actions and decisions of the institutions must be properly justified and explained in a clear and understandable manner. Institutions explicitly must not act arbitrarily. A decision is clearly explained and well justified if it meets the following three criteria: the law, the facts, and a balanced consideration of interests.

4. Accesible and reachable

Institutions must be accessible and easy for citizens to reach. This means that citizens should be able to contact institutions in various low-threshold ways. There must be a reliable, prompt, and adequate response, with a human touch (not just automated systems), and this accessibility must be continuous. Citizens should not be unnecessarily hindered when trying to engage in dialogue with institutions or when seeking answers to their questions.





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RESPECTFUL

5. Respect for fundamental rights

Institutions must respect the fundamental rights of citizens. These rights are in the Constitution of Aruba, the Constitution of the Kingdom of the Netherlands, and in international treaties such as the European Convention on Human Rights (ECHR). Examples include the right to privacy, freedom of expression, inviolability of the home, right to physical autonomy and integrity, right to personal liberty, the prohibition of discrimination, the right to education and the right to healthcare.

6. Decent treatment

Citizens must be treated in a decent, helpful, and respectful manner by institutions, with consideration for their requests or concerns.

7. Fair play

Fair play means that institutions must act objectively and fairly, and proactively provide information about procedural options available to citizens, even if not explicitly requested.





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8. Right to a fair hearing

Institutions must adopt an open attitude that allows citizens to present their views and facts, while also giving them the opportunity to defend themselves against opposing viewpoints.

9. Proportionality

Institutions must choose measures that do not have a disproportionate impact on the personal lives of citizens and that are proportionate to the intended goal. This means institutions must always assess whether a less intrusive measure could be used to achieve the desired outcome.

10. Special duty of care

Institutions must provide appropriate care to individuals placed under their responsibility, especially those who, due to their dependent position, rely on these institutions. Institutions have a duty to properly care for individuals whose physical freedom or autonomy have been restricted. They are responsible for providing adequate medical and other forms of care to these individuals. Examples include detainees and minors placed in (closed) youth care facilities.





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INVOLVED AND SOLUTION-ORIENTED

11. Customized service (tailored approach)

The laws and regulations are always the basis for decision making, but, specific circumstances must also be taken into account. In their practical actions, institutions must consistently seek measures and solutions that fit the individual citizen's specific situation.

12. Collaboration

Institutions must proactively collaborate with each other in the interest of the citizen. Citizens should not be pushed from pillar to post.

Institutions must not adopt a reserved attitude by invoking a narrowly defined mandate.

13. Flexible attitude

Institutions must be willing to deal flexibly with specific problems. They should seek appropriate solutions, even in cases where a citizen suffers disproportionate disadvantage due to a measure taken in the public interest.





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14. Promptness

Decisions must be made as quickly and effectively as possible. Legal deadlines are maximum timeframe. If decision-making takes longer than the established timeframe, the citizen must be informed. If no specific deadline is set by law, the institution must act within a reasonable timeframe.

15. De-escalation

Institutions must aim to prevent or limit escalation in their interactions with citizens. Communication skills and a solution-oriented attitude are essential.

Citizens are human beings and exhibit human behavior. The way institutions respond to that behavior can play a significant role in whether a situation escalates or not.

Institutions are expected to maintain a professional attitude, striving as much as possible to prevent escalation or to de-escalate if escalation occurs.

If a citizen is unwilling to reach an agreement or clearly behaves unreasonably, institutions may proceed to take appropriate measures.





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SINCERE AND RELIABLE

16. Integrity

Institutions must act with integrity and use their authority solely for the purpose for which it was granted. Citizens must be able to trust that institutions and their staff do not misuse their position, power, time and/ or resources.

17. Legal certainty

Institutions must act honestly and sincerely within the boundaries of the law and do what they promise to do.

They must fulfill their commitments and promises as accurately as possible. Justified expectations that have been raised for citizens must be honored. Institutions must promptly and diligently comply with judicial rulings.





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18. Impartiality

Institutions must act impartially and without prejudice.

All appearance of bias must be avoided, and citizens must be able to trust that institutions operate in an impartial manner.

19. Reasonable

Before making a decision, all interests must be carefully weighed against each other.

20. Proper preparation

Institutions must ensure that they gather all relevant information necessary to reach a well-considered decision. This means actively acquiring information through a process of hearing both sides.

21. Sound administrative organization

Administrative systems must support effective service. Institutions must ensure that their organization and administration contribute to quality service delivery. They must work accurately and avoid carelessness. Any errors must be corrected as quickly as possible.





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The setup of the (digital) administrative organization must ensure the continuity of institutional operations. Institutions must store submitted documents carefully and process the provided information purposefully. The information shared must be truthful and clear. Proper record-keeping is essential.

22. Professionalism

Citizens may expect institutions to have professional standards and guidelines in their actions.

