

Memo: TU Delft's Duty of Care

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1. Rationale

In recent years, student¹ well-being has become an increasingly important topic in society, and therefore at TU Delft. This has led to the need to clarify TU Delft's duty of care and determine its scope, i.e. where our duty of care begins and ends. Thus, enabling the university as a whole, including faculties and the university corporate offices, to achieve the level of quality we aspire to. The Dutch Ministry of Education, Culture and Science (OCW) has also responded to the growing societal focus on student well-being, as evidenced by the Administrative Agreement on Higher Education and Research System (OCW 2022, Bestuursakkoord hoger onderwijs en wetenschap) and from motions put forward in the House of Representatives on suicide prevention and counselling for students with disabilities, to name but two examples.

Higher education institutions have a **legal duty of care** for their students. This duty of care arises primarily from the Higher Education and Scientific Research Act (WHW) and the specific legal relationship between TU Delft and its students. Employees and students at TU Delft need to know clearly what specific rights and obligations arise from this legal duty of care. While there is no explicit legislation on the matter, case law and national policy provide general insight.

For TU Delft, it is important to guarantee that we comply with the scope laid down in our duty of care memorandum. Without a concrete policy, students may miss out on opportunities to graduate, and the university may not meet the level of quality befitting a higher education institution. Moreover, establishing a clear policy on the university's duty of care will help create legal security for both students and the institution.

This memorandum therefore clarifies the extent of TU Delft's duty of care and discusses how TU Delft defines and operationalises its duty of care. The memorandum also outlines benchmarks that have garnered universal support and commitment from stakeholders. The memorandum 'TU Delft's Duty of Care' serves as a policy statement on our duty of care and as a position statement and advice for TU Delft decision-makers to adopt a TU Delft-wide definition and interpretation of the duty of care. The memorandum is also a guide for process owners responsible for implementing the duty of care. The 'Duty of Care Framework' (see Annex 1) serves to concretise and operationalise the policy.

2. Duty of care definition

TU Delft defines its duty of care as follows:

TU Delft has a duty of care to design its education and study climate in such a way as to support student well-being. TU Delft is responsible for creating an open, safe and inclusive environment that enables students to flourish and pursue academic and personal development. Moreover, TU Delft is responsible for making guidance available to those students who need it in order to successfully start, follow and complete a degree programme at TU Delft.

This definition is based on the Universities of the Netherlands' (Universiteiten van Nederland, UNL) duty of care framework, as described in the UNL Vision on Student Well-being (March 2022): *'The*

¹ In this memorandum, students are defined as persons who are enrolled or have applied for enrolment at TU Delft, unless the text explicitly mentions otherwise.

universities' duty of care within the broad societal issue of student well-being is to ensure that the education environment and the education are structured in such a way as to support student well-being. Universities are responsible for creating an open, safe and inclusive environment that enables students to flourish in terms of their academic and personal development. In addition, universities are responsible for offering counselling and support to students who need it in order to successfully start, participate in and complete a study programme in the Dutch higher education system. Individual students may embark on their studies from different starting positions, or may develop a need for support during their time as students. The institutions endeavour to remove obstacles to the feasibility of their study programmes wherever possible. This is among the basic facilities provided by a university. In exceptional circumstances, such as during the COVID-19 pandemic, an institution may further scale up these facilities. This is how universities can offer their students the possibility of working to improve their well-being; it is the students' responsibility to take advantage of these opportunities.'

As part of its duty of care it is the responsibility of TU Delft to inform and guide students as would be expected of a competent and reasonable educational institution. Issues of feasibility and affordability must also be considered in this respect. Additionally, TU Delft also considers itself responsible for providing high-quality education (the 'academic system', see 3.1).

TU Delft's definition of its duty of care is mainly based on articles of the **WHW** and related case law. In particular, article [7.34](#) (para 1) provides frameworks for the definition. Briefly, this article states that a student has the right to participate in initial education, take the corresponding tests and examinations, use other student facilities and receive student counselling. The TU Delft definition of the duty of care is further based on articles [1.18](#), [7.4](#), [7.13](#) and [7.15](#) of the WHW and other relevant legislation, such as the Disability or Chronic Illness (Equal Treatment) Act on the basis of which TU Delft must, where necessary and to the extent possible and reasonable, make effective adjustments to enable students with a disability or chronic illness to successfully study at TU Delft. The definition and operationalisation of TU Delft's duty of care aligns with the **UNL Vision on Student Well-being (2022)** and with the **TU Delft Code of Conduct** and its core values (DIRECT - diversity, integrity, respect, engagement, courage, trust).

2.1 TU Delft ambitions in addition to its duty of care

Aside from its legal duty of care, TU Delft has formulated its own ambitions for student well-being out of commitment to its students. TU Delft's own ambitions are an extension of its duty of care. These ambitions are aimed at improving **student success**², however students cannot derive any rights from these ambitions. The university's ambition is articulated in the **Vision on Student Guidance**³, which requires further operationalization through execution of the corresponding implementation plan.

As a learning organisation, TU Delft continues to strive to develop and improve its processes. This applies to duty-of-care processes as much as it does to initiatives such as the **Study Climate Programme**⁴ and the **Vision on Teaching & Learning**⁵ both of which also contribute to promoting student success.

² Based on the definition of Student Success (De Minister van Onderwijs, Cultuur en Wetenschap, I.K. van Engelshoven in een brief aan de Tweede Kamer, 13 September 2019.): "Every student needs something different to be successful and not every student starts from the same position. Student success not only means being able to graduate within a reasonable period of time, but also room for personal development, with attention to student well-being and being able to take control of one's own learning."

³ Vision on Student Guidance & primary principles, TU Delft, December 2022

⁴ Terms of reference for creating a "campus, study and student climate in which students feel welcome, are supported in their development and are able to fully unlock their potential", TU Delft, June 2019

⁵ Draft Vision on Teaching and Learning as submitted to the Collective Consultation of Directors of Education in January 2023

3. TU Delft operationalising its duty of care

3.1 The duty of care applies to three domains

Based on the definition of the duty of care, three domains can be identified, which are also named in the UNL vision on student well-being. The three domains are:

1. The **academic system**: quality of education (content and studyability).
2. The **information system**: findability and accessibility of information for students and staff.
3. The **social system**: quality of support and guidance, study climate and social safety.

All three domains are intertwined.

3.2 Areas for further operationalisation: information system and social system

The general impression is that TU Delft effectively fulfils its duty of care. The first domain, the academic system, is monitored and assessed by both TU Delft's educational quality assurance system and the National Accreditation System. Based on the positive quality assessments and accreditations, it can be said that the academic system is in order. Therefore, no further basic requirements have been added to this domain. TU Delft also has ample facilities, charters, frameworks and protocols for the other two domains:

- Information system (information and communication regarding enrolment, advancement, problems and unenrolment/graduation)
- and Social system (good guidance regarding: enrolment, advancement, problems and unenrolment/graduation and social safety)

However, TU Delft-wide **quality assurance** for these two domains is still lacking. Setting up quality assurance and monitoring should help safeguard quality levels and provide for a continuous process of quality improvement. To operationalise the duty of care of domains 2 and 3, the following TU Delft-wide **basic requirements** have been formulated:

Domain 2: Information system
A - Information on the degree programme is clear, correct and inclusive. The information is helpful for (potential) students and staff members. Information is easy to find and provided in a timely manner.
B - Information about studying in Delft/at TU Delft is clear, correct and inclusive. The information is helpful for (potential) students and staff members. Information is easy to find and provided in a timely manner.
C - TU Delft proactively and periodically reaches out to specific target groups about their study progress.
D - There is proactive and periodic communication about (central) admission and enrolment criteria such as payment of tuition fees.
Domain 3: Social system
E - Students receive a good onboarding at TU Delft and at their degree programme (BSc and MSc)
F - Support staff provides professional student guidance.
G - Lecturers provide professional educational guidance. ⁶
H - TU Delft is an inclusive and socially safe environment. ⁷

⁶ Draft Vision on Teaching and Learning as submitted to the Collective Consultation of Directors of Education in January 2023

⁷ This memorandum does not address issues such as information security and building security etc. because they are part of TU Delft's standard operations and corresponding rules.

A precondition for fulfilling the duty of care is a well-functioning student guidance chain with sufficient qualitative and quantitative capacity. For this reason, two basic requirements have been formulated within the Social system domain:

Domain 3: Social system; Student guidance chain in order and in control
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I - Roles and responsibilities are clearly defined and known.

J - The student guidance chain is clearly visible

The attached **Duty of Care Framework** elaborates on the basic requirements A to J (see Annex 1). The Framework addresses *how* each basic requirement should be achieved (actions at central and faculty level). Employees can use the Framework to see which parts of the duty of care are relevant to their role (see section 4.1).

3.3 Benefits and risks

When fulfilled properly, the university's duty of care will improve the study climate and contribute to student success. We expect this to have the following benefits:

- Students choose an appropriate programme, are well-informed when starting their studies and have realistic expectations. (This also has a positive effect on the organisability of educational processes.)
- Students will know what is expected of them in terms of commitment, attitude, behaviour and practicalities.
- Students know what support and guidance they can get and seek it in a timely manner, which helps them achieve key milestones or decide to drop out or switch to a different programme before getting a binding recommendation on continuation of studies (BSA).
- Students quickly and safely feel part of their degree programme community. This has a positive effect on academic achievement and gives them opportunities to develop competencies such as autonomy, resilience and responsibility.
- Guidance is provided based on a shared definition and interpretation of the duty of care and vision on student guidance. This uniformity (different actors behave the same in similar situations) makes student guidance predictable, unambiguous, effective and efficient.
 - o There is insight into the entire chain, so everyone in the chain knows their responsibility and role and acts accordingly.
 - o Employees receive timely information and support.
 - o Staff members are competent in their various roles. They provide timely and appropriate information/support/feedback to students, motivating them to develop and encouraging them to advance through their studies.
 - o Employees are alerted to mismatches at an earlier stage and can focus on the main priorities for their role.
 - o There is room to share experiences and give feedback, which means that improvements are made at an earlier stage.
- Explicitly defining appropriate and inappropriate behaviour helps curtail integrity violations.

Risks

Besides missing out on the above benefits, failure to adequately exercise the duty of care can lead to risks. For example, students may choose an unsuitable degree programme, get delayed (and accrue student debts), or drop out. These situations put pressure on students and staff members alike, which could negatively impact the well-being of students and staff and possibly lead to complaints.

3.4 Special attention for specific target groups

The earlier table mentions 'specific target groups'. These are groups of students who need additional facilities. The three groups are as follows:

- Students with **disabilities**: extent of facilities is guided by policies for students with a disability
- Students facing **unforeseen circumstances**: some additional facilities are provided by the Horizon helpdesk, the Profiling Fund Scheme ('regeling profilerende fondsen') and the Protocol on Concerning Behaviour ('protocol zorgwekkend gedrag').
- Students facing **foreseen circumstances**: some additional facilities are provided by the Policy for elite student athletes ('top-sport regeling'), RPF (boards) and policy for non-EU students with visa requirements (MoMI students).

4. Fulfilling the university's duty of care

4.1 Internal stakeholders responsible for fulfilling the university's duty of care

Within TU Delft, various parties are responsible for fulfilling different parts of the duty of care. This mainly includes Education & Student Affairs (ESA, both central and faculty), the deans and the Education Management Teams (EMT) at the faculties, the departments of (student) Communications, Safety and Security, as well as the Integrity Office and Diversity & Inclusion Office. Process owners within those departments can use the Framework to explore with their teams, which basic requirements apply to their work. Relevant questions to ask include:

- Which basic requirements are not yet or insufficiently met in practice and what needs to be done / what is needed to fully meet the basic requirements?
- Who is primarily responsible for which specific tasks?
- How do we monitor and follow through on our promises and whether the results meet the necessary quality requirements?

In many parts of the organisation, the basic requirements are met. TU Delft professionals harness their insight to properly and appropriately interpret terms such as 'constructive', 'sound', 'good', 'appropriate', 'timely', and 'sufficient'. This is in line with TU Delft's organisational culture, which is based on trust and employee discretion. Other internal parties are also closely connected to the university's duty of care. A prerequisite for properly exercising the duty of care is that all parties involved are aware of their roles, consult each other and cooperate in a constructive manner, and hand over cases to each other where necessary. This is part of TU Delft's day-to-day operations.

4.2 Student responsibilities

TU Delft has a duty of care, but students are also responsible for their own well-being (appropriate to their year of study). There is some degree of reciprocity: if students do not take responsibility, it will be less likely that TU Delft can adequately exercise its duty of care. TU Delft expects prospective students to familiarise themselves with the (legal, institutional and programme-specific) requirements, rights and obligations upon registration and during their studies.

TU Delft expects students to:

- familiarise themselves with and adhere to the **Code of Conduct** and subscribe to its **core values**, in speech and conduct (including active commitment to their studies);

- take care of their **own well-being** and **manage** their **own study progress and development**, for example by knowing where to find- and using study and well-being-related information;
- **request help** when necessary.

In addition, TU Delft counts on students to consider the **well-being of others – both students and staff** – and form a community with fellow students in which they **support each other** by being mindful of each other's needs and embracing each other's diversity and vulnerability.

4.3 Where the duty of care ends: responsibilities of third parties

TU Delft depends on a well-functioning national (mental) healthcare system. It is TU Delft's responsibility to be well informed about relevant third parties in the healthcare system and to point students who need additional care, to relevant third parties for counselling (e.g. to Student Health Foundation (studentengezondheidszorg), Mental Health Care (GGZ), the Bezorgd hotline (Meldpunt bezorgd), the police or 113 Suicide Prevention). The proper functioning of the national healthcare system is beyond the scope of TU Delft's duty of care.

4.4 Costs

The costs of developing TU Delft's duty of care and ambition, as well as the costs of setting up a quality assurance and monitoring system will be funded through the budget of the Study Climate programme until 2025. Further implementation of the duty of care will primarily be taken up by the same parties that are currently responsible for its execution. What measures are needed as part of the university's care ambitions and who can best implement these measures will be determined at a later stage.

The structural costs (institutional and faculty) of the follow-up process are not yet clear. However, it is clear that communications to students, e.g. about the facilities available to them, should be improved to optimise the visibility of the current offerings. The proposal is to have ESA Student Communications set up a project for this purpose in collaboration with external experts. The estimated costs are €100K, with the project expected to last one year. Further costs could include work done by student guidance officers, developing other offerings and structurally embedding the coordination position at Academic Services after 2024. Insight into additional costs will have to emerge from evaluations of the implementation of the duty of care, the first of which is expected in the second quarter of 2024.

5. Proposed decisions to be taken by the Executive Board

5.1 TU Delft-wide adoption of the definition and interpretation of the duty of care

The recommendation is to adopt and apply the definition and interpretation of TU Delft's duty of care as described in this memorandum. The definition is based on relevant sources and input from relevant stakeholders. If adopted, the definition and interpretation will provide guidance for staff and students and clarify their responsibilities. This will be the foundation from which TU Delft can monitor and improve its efforts.

5.2 Implementing the duty of care and developing care ambitions

The recommendation is to instruct deans and directors to continue implementing the duty of care where necessary based on the Framework. TU Delft's care ambitions can be developed simultaneously. Stakeholders should jointly explore which actions are desirable and feasible in which timeframe, headed by the ESA director.

Communications about TU Delft's **care ambitions** warrant special diligence, making sure to only make **promises** that fall within the scope of the legal duty of care. TU Delft's care ambitions should mainly be communicated as general guidance for employees providing counselling, guidance or support to students. Communications about TU Delft's care ambitions must stress that they refer to **long-term goals** rather than current practice.

5.3 Set up of TU Delft-wide quality assurance and monitoring system

The recommendation is to implement a TU Delft-wide 'system' for quality assurance and monitoring of the duty of care, and embed the overseeing of such a system at ESA central level. TU Delft fulfils its statutory duty of care. The purpose of quality assurance is to safeguard quality and/or highlight areas for improvement and optimisation. This is a task for the Director of ESA in collaboration with the Faculty Heads of Education and Student Affairs.

5.4 Students sign the TUD Code of Conduct when registering in Studielink

Some degree of reciprocity is expected: if students do not take responsibility, it will be less likely that TU Delft can fully exercise its duty of care. To emphasise this, we recommend having students sign the Code of Conduct when they register in Studielink.

5.5 Costs and evaluation

The recommendation is to allocate a one-off lumpsum of €100K to improving the visibility of facilities for students (temporary project for ESA Student Communication). Additional costs will become apparent during the implementation and evaluation process. It is therefore recommended that an initial review be carried out in Q3 of 2024, focusing on proposed measures and their costs. These costs can be included in the 2024 Financial Framework.