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Administration procedures for discrimination, harassment and offence

1 Introduction

Equal treatment of all people is an expression of democracy and equality. Discrimination, harassment and offence are violations of human rights and are not accepted in any form at the University of Skövde (University).

The purpose of the Administration procedures is to provide support and guidance for handling situations where any person feels discriminated against, harassed or offended. The document is based on the national regulations in the *Discrimination Act* (2008:567), *Work Environment Act* (1977:1160) and Work Environment Authority (Arbetsmiljöverket) rules on *Systematic Work on Health and Safety (AFS 2001:1)* and *Organisational and Social Work Environment (AFS 2015:4)*. Locally, the regulations can be found in the policy documents *Guidelines for Equal Rights* (registration number HS 2018/192), *Action Plan for Anti-discrimination and Harassment/Sexual Harassment at the University of Skövde 2018* (registration number HS 2018/75)¹, *Action Plan for Equal Rights* (registration number HS 2018/194) and *Policy for Systematic Work on Health and Safety* (registration number HS 2016/90).

The Discrimination Act uses the terms *discrimination*, *harassment* and *sexual harassment* while the Work Environment Act uses the term *harassment at work*. The law distinguishes between harassment in regard to any of the discrimination grounds regulated in the Discrimination Act and other harassment regulated in the Work Environment Act.

The University must not perform reprisals against any employee or student for reporting or announcing, or for being part of any investigation regarding any action related to discrimination, harassment or offence. The non-reprisal provision can be found in the Discrimination Act.

The administration procedures apply to all staff and students at the University. The administration procedures also apply, in applicable parts, to applicants to courses and programmes, employment or traineeships, and individuals who are trainees or who work as contracted staff.

¹ The Action Plan for Anti-discrimination and Harassment/Sexual Harassment at the University of Skövde, which only applies to staff, will be included in the Action Plan for Equal Rights during the next period, that is 2020 - 2022. The goals and measures in the field will then include both staff and students.

2 Discrimination, harassment and harassment at work

Discrimination is when a person is disadvantaged related to any of the discrimination grounds sex, transgender identity or expression, ethnic origin, religion or belief, impairment, sexual orientation, or age. The grounds for discrimination are described in detail in the *Policy for Equal Rights*.

Harassment is any action that is offensive to a person and can be connected to any of the grounds for discrimination. For an action to be classified as discrimination per The Discrimination Act, it must be determined that the harassment is directed towards a person specifically because of a person's disability, gender or sexual orientation, for example.

Harassment at work concerns actions directed towards one or more employees in an offensive manner that may lead to illness or individuals being excluded from the work place community (*Work Environment Authority's Systematic Work on Health and Safety, AFS 2015:4*). This is often referred to as bullying. According to The Work Environment Act, students and employees are both included in the definitions. There are often underlying factors that lay the grounds for harassment at work. Some factors may be organisational issues, weak leadership, constant change, stress, or unresolved conflicts. Both managers and members of a work team can harass an individual or be subject to harassment. Sometimes, harassment at work can be caused by the actions of an individual. Harassment at work does not have to be connected to any of the grounds for discrimination.

The person being harassed is the one who decides if the behaviour or action is unwelcome and causes discomfort. At the same time, the person who is harassing or being offensive must "realize" that his or her behaviour is perceived as such. That means that the person being harassed or offended must make the other person aware that the behaviour is unwelcome. Sometimes, the harassment or offensive behaviour is obvious and in such cases, there is no requirement for remarks from the affected person.

For the sake of clarity, it should also be mentioned that occasional differences of opinion, conflicts and issues while working together in general are considered normal. Those instances should be resolved by conversation, listening, accepting and respecting others' right to their opinions.

3 Responsibilities regarding issues of discrimination, harassment and offence.

The Vice-Chancellor has the overall responsibility for the University's activities, and together with the University management, the Vice-Chancellor is to conduct active and goal-oriented efforts to prevent discrimination, harassment and offence.

The Vice-Chancellor² has delegated the direct responsibility for these efforts to the *Heads of Schools*, the *University Director* and the *Head of the Vice-Chancellor's Office*.

The Heads of Schools³ and the University Director⁴ have, in turn, delegated their responsibilities to the *Heads of Divisions*. The responsibility for issues regarding

² The Vice-Chancellor is responsible for his/her subordinate managers, that is the University Director, the Heads of Schools and the Head of the Vice-Chancellor's Office.

discrimination, harassment and offence is included in the work environment responsibilities that are part of the job descriptions of managers. Managers must see to it that these matters are considered in the regular activities. They are also responsible for investigations, measures and preventative efforts in regard to discrimination, harassment and offence (see section 4). The Heads of Divisions at the various schools are responsible for both the employees and the students within the school.

The functions *HR-specialist for equal rights (HR-specialist)* and *the Coordinator for equal rights for students (Coordinator)* provide support in matters concerning discrimination, harassment and offence. The HR-specialist provides support for matters involving employees and the coordinator for matters involving students. The functions offer support both to the person affected and to the responsible managers concerning investigations, measures, and preventative actions.

In addition, *all employees and students* at the University have a responsibility to contribute to a good work and study atmosphere where equal rights prevail.

4 Investigation of matters

Any matter concerning discrimination, harassment or offence must be handled with respect for and in consideration of the affected person's wishes. The goal is to stop the unwelcome behaviour as soon as possible. That is why it may sometimes be better for all individuals involved to seek an informal and pragmatic solution to the situation. In certain cases, however, a more formal administration of the matter may be necessary.

4.1 Responsibility for the investigation.

The responsibility for the investigation normally lies with the manager of the affected employee. If the affected person is a student, the responsibility normally belongs to the manager of the education, that is the Head of Division. If the information regarding unwelcome behaviour concerns the line manager/the manager responsible for the education, the matter will be referred to the superior manager.

The support functions (HR-specialist and coordinator) assists the manager in a number of ways, for example by risk assessment, investigation support and identifying suitable measures to stop the unwelcome behaviour. The university's legal advisor may also assist if needed.

4.2 Duty to investigate

If the university becomes aware of any employee or student who feels that he or she has been exposed to discrimination, harassment, or offence, the circumstances around the situation must be investigated and preventative measures must be taken. This also applies to cases where the information is based on rumours, anonymous oral or written statements or other circumstances.

Before investigating, the person perceiving the discrimination, harassment or offence must give their consent. If the person does not want to cooperate, it is not possible to perform an investigation. In such cases, the matter is closed. The university is

³ The Vice-Chancellor is responsible for the next level managers, that is the University Director, the Heads of Schools and the administration staff outside the sections.

⁴ The Vice-Chancellor is responsible for the next level managers, that is the Heads of the Sections in the Vice-Chancellor's Office.

considered to have fulfilled the duty to investigate outlined on a national level, in particular regarding the Discrimination Act. If there is a risk that other employees or student may be affected, the university must take general preventative measures.

4.3 Introducing an investigation

Contacting managers or support function

An employee or student who feels exposed to discrimination, harassment, or offence may contact their line manager or the Head of Division for the education. A person may also contact a support function (HR-specialist or coordinator) who in turn will contact the responsible manager. The manager may, in collaboration with the support function, start an investigation.

Colleagues and fellow students may also contact the above functions for advice regarding observations of other persons being exposed. However, it is only the exposed person who can determine whether a behaviour is unwelcome or not. Any measures require direct contact from the person who has been exposed.

Formal complaint to the University

An employee or student who feels exposed to discrimination, harassment, or offence may file a formal complaint to the University through the Registrar. The complaint should be made in written form, and the exposed person may request assistance from the support functions (see above) or other function to write the complaint. The person filing the complaint must personally approve a complaint that was written by someone else.

The complaint must contain a statement of what happened, and the time or time frame of the events. If the person filing the complaint alleges that any person or persons have conducted the harassment or harassment at work, the names of these individuals must be stated. The identified person's affiliation to the University must also be stated. Any documentation, such as emails or text messages, should be provided as attachments. The person filing a complaint may seek advice from the support function before filing.

Information to affected parts

The person whom the complaint refers to and that person's manager will be informed about the complaint. If the exposed person or the person whom the complaint refers to is an employee, the HR-director will also be informed. If the exposed person or the person whom the complaint refers to is a student, the Office for Academic Affairs and Student Support will also be informed. Any other functions and/or persons will be informed as needed.

4.4 Support persons

Generally, the investigation begins with informing the filing person and the person being reported about the possibility of being assigned a support person, who may be a colleague or a student. The function of the support person is to offer friendly support to another human being in a delicate situation, and not to represent any of the parties involved. Only a person not involved in the investigation can be a support person.

The exposed employee selects his/her own support person, together with the manager responsible for the investigation. If the exposed employee wants, the support person may be the health and safety representative. If the exposed person is a student, he/she

may have a support person assigned by the section for education and student support. The assignment of a support person takes place in collaboration with the student and the manager responsible for the investigation.

4.5 The investigation process

The investigation is considered exercise of public authority vis-a-vis an individual, and must be conducted in a factual, objective and legally secure way. The legal security requires that the person being investigated must be considered innocent for the duration of the investigation. The investigation must be conducted promptly and with comprehensive discretion. However, all events and circumstances that become known during the investigation must be shared with the parties involved, and the parties must be given an opportunity to make a statement. The investigation requires that the parties concerned take part on a voluntary basis. The University cannot apply exertion to conduct an investigation.

The main rule is that the investigation must be documented. The documentation should include the measures taken, the reasons for the measures taken and the result. The documentation is a general document that may become public record, see section 4.8 below.

There are two ways of conducting an investigation. After consulting with the support function, the responsible manager may try to find a solution to the situation at hand through an informal process. For example, by conducting initial talks with the separate parties involved and then with all parts present (unless obviously inappropriate). The purpose of the conversations is to talk about the events together with the manager and/or support function. The purpose of such a conversation is to reach a solution that all parties are satisfied with. Other measures may be a more detail conflict management or corrective talks⁵.

In order to close a case after an informal process, the situation must be resolved promptly and in a way that is accepted by the parties involved. If such a solution cannot be reached, the investigation of the case will continue by a formal process and a decision will be made by the responsible manager (see section 4.6). In cases of formal process, external resources may be used.

4.6 Decision and consequences

If a case must be resolved through a formal process, a decision is made by the responsible manager following a briefing of the case from the function supporting the investigation. The possible decisions are 1) the case is forwarded to the staff disciplinary board or the Staff Disciplinary Board at the Government Offices (for employees) or to the disciplinary board (for students). Such decisions must be made after consulting the University's Legal Advisor. The case may also be closed without any further measures.

The staff disciplinary board may decide to issue a disciplinary penalty, a warning or salary deduction. Furthermore, the staff disciplinary board and the Staff Disciplinary Board at the Government Offices may consider other penalties under the labour law, such as termination of employment on personal grounds for dismissal.

⁵ Corrective talks are talks between a manager and an employee where the manager shares his/her views on the employee's behaviour in the work place. The purpose of corrective talks is to make the employee aware of the fact that his/her behaviour is not acceptable and help the employee to change it.

The disciplinary board may issue a warning or suspension for up to six months. A student who gets suspended may not participate in teaching, exams or other activities within the University. The suspension means that the student loses his/her right to financial aid for university studies during the suspension time.

If the investigation reveals information that leads to suspicion of any crime, the matter may be handed over to the law enforcement authorities for further evaluation. Any employee or student who consider themselves exposed for a crime can also report this to the law enforcement authorities. The prosecutor decides whether charges will be made, and public courts decide whether a crime has been committed.

Any employee or student who is not satisfied with how the University has processed cases regarding discrimination or harassment can turn to the Ombudsman for Equal Rights or their labour rights organisation. The reporting party may request compensation for discrimination by pressing charges in a court of law, if they believe that the University has not fulfilled their obligations in accordance with the Discrimination Act.

4.7 Follow-up

After a case is closed, the manager of the section concerned must consider whether there is a need to take preventative measures for the future. These measures include, but are not limited to, education for employees, inspections regarding the organisational or social work environment, or providing information about how to handle cases regarding discrimination, harassment or offensive behaviour.

The measures must include a follow-up of the section's procedures regarding work environment. The manager must inform the safety representative or the student safety representative about the events and discuss what may have caused the event and what work environment measures that need to be taken.

It is also important to perform a continuous follow-up to make sure that the unwelcome behaviour has stopped.

4.8 General and public records

Records and documents received by the University, or that are produced at the University, are general and public, unless they are classified and therefore not available to the public, see Public Access to Information and Secrecy Act (2009:400). Normally, cases regarding discrimination, harassment and offence are not classified. This means that the records for such cases are public, including information such as the names of the parties involved.

Written complaints that are filed with the registry office are general records. As stated above, general records are considered public records, unless classified. If a case is initiated through verbal communication with a manager or support function, any information from such communication must be recorded in writing. This documentation will become general records when registered or when the case is closed. Such general records are also considered public records, unless classified.

5 Effective date

The Administration procedures take effect 7 May 2018 and together with the Policy for Equal Rights (HS 2018/192), they replace the following documents:

- *Guidelines for the Administration of Matters Concerning Equal Rights for Students at the University of Skövde* (registration number HS 2015/857)
- *Guidelines for Support Persons for Students* (registration number (registration number HS 2012/186-112)
- *Action Programme for Sexual harassment and Harassment* (registration number HS 2010/204-111)
- *Action Programme for Discriminating Actions* (registration number HS 2010/203-111)