

ROUTINE

For discrimination, harassment, sexual harassment
and reprisals, ref. no. 2018/185 A 21

Summary

The requirements stipulated by the discrimination legislation and the responsibility of University West as well as case management for employees and students

Responsible for the routine: The HR Department
Decided by the Vice-Chancellor and applying from 12/02/2018

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Summary of the document

The routine contains a case management procedure for how reports regarding discrimination, harassment, sexual harassment and reprisals shall be made and a description of this process. Information on current legislation in the area, the responsibility of the university and commissions to counteract discrimination, harassment and sexual harassment as well as internal organisation, division of responsibility and contact persons are accounted for. The routine also briefly describes the grounds for discrimination and the forms of discrimination that exists according to the discrimination legislation. Victimization, which is not a form of discrimination, is also touched upon and taken into consideration.

The document is aimed at both managers (employers and education providers), employees, students and applicants to the university (for work/studies). The starting point is the Discrimination Act's requirements for investigation and measures for harassment and sexual harassment.

In connection with this document coming into force, the following documents become obsolete:

- Rules of procedure for preventing, discovering and rectifying harassment and victimisation 2010/771 A 21

Introduction

The equal value of every individual is an obvious and fundamental prerequisite for the activities at University West. Our fundamental values state that "each and every activity at and service provided by University West is based on the principle that all people are created equal, and that democracy and diversity contribute to social welfare, justice and sustainable social development" (University West Strategic Platform ref. no. 2017/1391). The university is and shall be a transparent and open higher education institution, characterised by tolerance for each other's differences and opinions in order to promote the individual's opportunities for work and studies, and to develop the activities at University West. We work actively to counteract and prevent discrimination, harassment, victimisation and cultures of silence. Both employees and students shall be treated, met and meet each other with respect and dignity.

The starting point for the university's work to counteract and prevent discrimination, harassment and reprisals as well as victimisation is the discrimination legislation, working environment legislation, the university fundamental values (which is based on the governmental fundamental values) as well as the university's strategic platform.

The preventative work described in the following routines takes its starting point in the discrimination legislation and is labelled "equal opportunities". In order to achieve the preventative work described in the law, the work for equal opportunities at University West has a succinct connection to the university's quality and working environment processes.

Laws and rules

The terms and definitions used in this document are primarily based on the definitions stated in:

- The Discrimination Act (2008:567)

Other laws are also mentioned, among them the Work Environment Act (1977:1160) and its provisions as well as the Parental Leave Act (1995:584).

Target group

The document encompasses and is addressing all employees at University West. It also applies to people who do not have a direct term of employment at the university, i.e. agency staff, scholarship holders, interns and those on parental leave. The document is also addressing all those who study at University West and those who apply for study programmes or job positions at the university.

Definitions

The terms and definitions used in this document are primarily based on the definitions stated in the Discrimination Act (2008:567). The document also highlights terms such as victimisation in working life and clarified the difference between discrimination and victimisation.

Discrimination

Discrimination means that someone is disadvantaged or violated and that the disadvantage/violation has a connection to one of the seven grounds for discrimination gender, transgender identity or expression, ethnicity, religion or other belief system, disability, sexual orientation and age. There are different types of discrimination: direct discrimination, indirect discrimination, inadequate accessibility, harassment and sexual harassment as well as instructions to discriminate. If an employer/education provider becomes aware of an employee (including agency staff and interns), a student or an applicant having potentially been subjected to harassment or sexual harassment, the employer/education provider is obliged to investigate the situation and in applicable cases take the measures that reasonably can be demanded in order to prevent similar violations/disadvantages occur in future.

NOTE! The Discrimination Act highlights that it is the grounds for discrimination, harassment and sexual harassment that the employers and education providers are obliged to investigate. At University West reports on suspected harassment and sexual harassment as well as other forms of suspected discrimination are investigated.

The Discrimination Act also contains a ban on reprisals, Chapter 2, Section 18. It primarily regards punishment measures towards the person who has reported or complained that the employer/education provider is violating the discrimination act.

Grounds for discrimination

There are seven grounds for discrimination that are encompassed by the law's discrimination ban. These are gender, transgender identity or expression, ethnicity, religion or other belief system, disability, sexual orientation and age. The definitions are taken directly from the Equality Ombudsman descriptions¹.

Sex: The term sex means that someone is male or female. The prohibition of discrimination on the ground of also includes persons who have undergone, or who are planning to undergo sex reassignment.

Transgender identity or expression: Transgender identity or expression describes persons who do not define themselves as a woman or a man, or express by their manner of dressing or in some other way that they belong to another sex. The term includes both a person's mental or self-perceived gender image and how a person expresses what may be called their social gender through, for example, clothing, body language, make-up or hair style.

¹ <http://www.do.se/om-diskriminering/skyddade-diskrimineringsgrunder/>

The grounds for discrimination refers to what is often called transpersons. It is an umbrella term encompassing those who in some respect deviate from the social norms for gender identities and expressions. Individuals who identify as transsexual but are not intending to undergo sex reassignment are also encompassed by this ground and thereby also the protection against discrimination.

Ethnicity: The term ethnicity refers to an individual's national or ethnic origin, skin colour or other similar characteristic. National origin means that people have the same national affinity, such as Finns, Poles or Swedes. Ethnic origin means that people have a relatively uniform culture. As an example may be mentioned that a person belongs to one of the national minorities such as Sami and Roma. All people have one or more ethnicities. Anyone can therefore be subjected to ethnic discrimination.

Religion or other belief: Religion refers to religious beliefs, such as Hinduism, Judaism, Christianity or Islam. Other beliefs include convictions which are based on or connected to a religious belief, such as Buddhism, atheism and agnosticism. Political convictions and ethical or philosophical values that are not related to religion are not covered by the Discrimination Act.

Disability: The term disability refers to lasting physical, mental, or intellectual limitations of a person's functional capacity that as a consequence of injury or illness existed at birth, has arisen since or can be expected to arise. Temporary limitations of a person's functional capacity are not a disability in the sense referred to in the Discrimination Act.

Disability entails a reduction of a person's physical, mental or intellectual capacity. This is therefore something that a person has, not something that a person is. A disability may be more or less apparent in different situations, such as allergies, dyslexia, hearing impairment, visual impairment and so on.

Sexual orientation: The law defines sexual orientation as homosexual, heterosexual and bisexual orientation. The prohibition of discrimination applies to all three of these sexual orientations. The protections of the Discrimination Act include situations and prerequisites that have a close connection to the sexual orientation, such as having sexual relationships or cohabiting with someone of the same or another sex.

Age: The law defines age as the length of life reached. The law refers to a person's physical age counted from when they were born. All people, regardless of age, are protected by the Discrimination Act.

Discrimination can take different forms based on one of the above grounds for discrimination. It could involve not being given information or not being invited to various events or being harassed. Or colleagues regularly not greeting you.

More information on the grounds for discrimination can be found at www.do.se and at the University West website: www.hv.se/likavillkor

Forms of discrimination

There are six different types of discrimination based on the definition in the legislation: direct discrimination, indirect discrimination, inadequate accessibility, harassment, sexual harassment and instructions to discriminate. All definitions are from the Discrimination Act and its wordings².

² <http://www.do.se/lag-och-ratt/diskrimineringslagen/>

Direct discrimination: Direct discrimination is when a person is disadvantaged by being treated less favourably than another person in a comparable situation. The disadvantaging must be related to one of the seven grounds of discrimination. Whether an event is discrimination depends on the individual situation.

Indirect discrimination: Indirect discrimination is when there is a rule or a procedure that appears to be neutral but in fact disadvantages people of a certain sex, a certain sexual identity or expression, a certain ethnic affiliation, a certain religion or belief, a certain disability, a certain sexual orientation or a certain age. The rule may then be discriminatory even though the same rule applies to all.

Inadequate accessibility: Inadequate accessibility is when a person with a disability is disadvantaged through a failure to take reasonable accessibility measures that would put that person in a comparable situation with others without the disability.

Harassment and sexual harassment: Harassment is conduct that violates a person's dignity. To fall within the scope of the Discrimination Act, the offensive behaviour must be related to one or more of the grounds of discrimination.

Harassment may be the expression of ridicule or degrading generalisations that have a connection to the grounds of discrimination.

Harassment may also be of a sexual nature. It is then known as sexual harassment. In addition to comments and words, this may include groping or casting inappropriate glances. This may also include unwelcome compliments, invitations and allusions.

Instruction to discriminate: An instruction to discriminate is when someone gives an order or instructs someone who is in some way dependent, such as an employee, to discriminate against another person. An instruction to discriminate may also be given to a person or a company that has undertaken a commission, such as a staffing agency.

Differentiating between discrimination and victimisation

Victimisation is defined as “offensive treatment directed at one or more employees, which may lead to ill health or to the victimised person being excluded from the social environment of the workplace” (AFS 2015:4).

Victimisation in working life is a broader term than discrimination. A rude treatment of one colleague by another can therefore be a matter of victimisation at the same time as it is not discrimination, that is it has no connection to any of the grounds for discrimination or it is not a way to discriminate in the eyes of the law. In order for it to be a matter, based on the discrimination legislation and in the university's case management of discrimination matters, there must be a clear connection to one or more grounds for discrimination. Other unwelcome behaviour can fall under the term victimisation in accordance with the Work Environment Act and the Swedish Work Environment Authority's provisions on victimisation.

If you want to know more about victimisation and how these cases are handled, read more in the university's "**Procedure for managing cases of victimisation**" ref. no. 2018/186 A 21.

NOTE! Discrimination connected to the grounds for discrimination and victimisation connected to the work environment legislation must not be confused with temporary conflicts, differences of opinion and cooperative problems that occur in most work and study environments. These can be

resolved through discussions, listening, accepting and showing respect for other's right to hold an opinion.

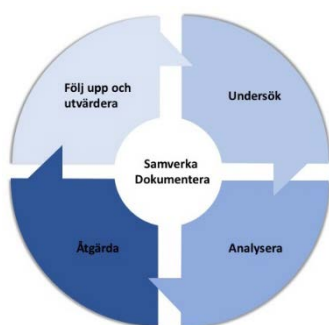
Examples of conflicts:

- Cooperative problems in a work or student group.
- Employee and manager have different opinions and disagree on the direction or work method of the activities and/or have differing opinions on the division of responsibility, authority and the wage structure.
- Student and teacher have different perceptions and disagree on the course structure, its implementation or grading.

However, it is important for the responsible parties to quickly manage situations that arise. In a closed and bad working environment abusive statements and acts can get out of hand and develop into violations.

University West's responsibility as employer and education provider based on the discrimination legislation

In its role as education provider and employer the university has a legislated responsibility to work promotionally and preventively with active measures to create an activity free from discrimination



based on the seven grounds for discrimination. Active measures means to continuously conduct work in four steps (investigate, analyse, rectify, follow up) within five areas based on the model on the left³. University West's work to create an environment free from discrimination forms an important part of the systematic working environment efforts (which also includes the university's work to prevent victimisation). For more information on how the university organises its work with active measures can be found in "Guidelines for University West's work to prevent and take measures against discrimination and victimisation" Ref. no. 2018/175A 21.

Furthermore the university shall produce guidelines and routines to prevent harassment, sexual harassment and reprisals. The purpose of this routine aims to clarify just how responsible persons and victims shall act when these situations, or suspicions of them, occur.

The responsibility of managers

The vice-chancellor has the overall responsibility for the university's working environment efforts where equal opportunities and the work to counteract and handle discrimination is included. Heads of department, the university director, the head of library and division managers within departments, administration and library have the direct responsibility within their departments/divisions (delegated by the vice-chancellor) and responsibility to prevent discrimination. Furthermore, responsible managers have an obligation to investigate and take measures when there are suspicions of sexual harassment and harassment. Read more under the section "Obligation to investigate at knowledge of suspicion of harassment/sexual harassment".

³ <http://www.do.se/framja-och-atgarda/arbetsgivarens-ansvar/> and <http://www.do.se/framja-och-atgarda/hogskolans-ansvar/>

Employees and students' responsibility

Each employee and student at University West has an individual responsibility to prevent discrimination and victimisation in their everyday interactions with colleagues, students, student colleagues and staff at the university. This is done by respectfully meeting each other and act for an environment free from discrimination. By pointing out any grievances that you become aware of, you take responsibility for this. If you witness someone else being subjected you need to talk to your immediate manager about the situation (if you are an employee) or the head of division/responsible teacher (if you are a student). If the manager/responsible teacher is involved you can instead talk to the HR department, the head of the manager (for employees), the teacher's manager (for students) or a union representative/student union. If a colleague tells you they feel subjected to discrimination, give the person the support you can and encourage the person to inform their manager of the situation.

Obligation to investigate at knowledge of suspicion of harassment/sexual harassment

The university has an obligation to investigate the circumstances when an employee or student feels subjected to harassment or sexual harassment (with a connection to the grounds for discrimination) and ensure that any unsatisfactory conditions end. The education provider/employer may also be made aware of the problems in various manners and by persons other than the victim and has an obligation to act in these cases as well.

Colleague/fellow student or equivalent

If you as a colleague finds out that harassment and sexual harassment may have occurred, speedily notify the responsible person (head of the division in question/at the programme in question) or refer it to another suitable contact person unless you are authorised to handle the matter yourself. Make sure you have the person's consent before you involve other parties. Respect anonymity to the largest possible extent. More advise to those who suspect that someone has been a victim can be found at www.hv.se/likavillkor

Manager

If suspicions arise, for example through rumours or observations, that someone feels harassment/sexual harassment the employer shall find out whether this is the case. Thus, no report from the person who feels victimised is needed. If the employer/education provider then asks the person in question and receives confirmation that the person feels harassed, the responsibility to investigate and take measures commences.

Knowledge is most suitably obtained by the person in a leading position, who have been informed or observed the event, by holding conversations with the person suspected of being harassed and the person or persons suspected of harassing. The person suspected of being a victim should be given the opportunity to confirm or deny the events before it can be said that the events have "come to one's knowledge". When you as a manager has received knowledge of harassment or sexual harassment having occurred you shall:

- Inform the superior manager and get help from advisory expert functions in order to assess the case and continued management. This can be one by HR specialists and/or by a lawyer. The superior manager is responsible for informing the vice-chancellor about the case.
- Initiate a dialogue as soon as possible where individual conversations are held with the victim and the person suspected. Both parties have the opportunity to bring a union/student union representative if they wish. It is also important to not question the victim and their story.

- Document the conversations, the measures that are taken and any action plans that are established. Ensure that you have a mutual understanding with the person who experiences/have been victim to harassment and with those who are suspected of harassing, about what has been documented and let them sign to attest that they have read the documentation. Describe the coming process and what will happen in the future. Offer counselling/external support if the parties need it. You as a manager will decide which support may be offered. Consult with an HR specialist.
- Hold conversations with witnesses as well if deemed necessary (for example if it is a matter of word against word).
- If the person who experiences having been subjected/have been subjected to harassment is not happy with the solution reached via dialogue, the manager shall as far as possible encourage the person to submit a **report**. If the person in question does not want to submit a report, continued investigation and measures may still be implemented. The university is exempt from the obligation to investigate and take measures only if it is obvious that there has been no harassment.
- More information and support material can be found at www.hv.se/likavillkor.

At suspicion of crime, it may be necessary to file a police report. An assessment must be made on a case by case basis.

Information for those who experiences having been subjected/have been subjected to discrimination

If you as an employee or student is subjected or experiences having been subjected to harassment, sexual harassment or any other type of discrimination, you shall:

- If possible, make it very clear to the person subjecting you to victimisation that the behaviour is unwanted and that you want it to stop. Try to be as concrete as possible regarding what behaviour/statement you experience to be discriminatory/harassment.
- Document that which has occurred. Note down time of day, date, any witnesses, the event and what the person harassing you said and/or did, your reaction and experience (what, where, when and how).
- **For employees:** The recommendation is to contact your line manager and request a private conversation. If the event relates to the relationship between you and your manager the problem shall be signalled to a higher institution where the superior manager shall be informed and take over the responsibility of investigating and handling the situation.
- **For students:** The recommendation is to talk to a responsible person, for example the programme or course coordinator or the manager responsible (for the programme you are studying) and request a private conversation. If the suspected discrimination relates to the relationship between you and your programme or course coordinator the problem shall be signalled to a higher institution where the superior manager takes over the responsibility of investigating and handling the situation.
- Accept the offer of processing the event and support if it is deemed important. Support can be found via the occupational health care service (for employees) and the student health care centre (for students).

- If you do not want to contact your manager, read more about alternative paths of contact and support you can receive (p.8-9).
- If you want to make a formal report, read more on page 9.

Paths of contact and support

All parties who feel subjected to harassment or sexual harassment or some other type of discrimination can, both in the initial stages (to raise awareness of what has occurred) and during potential investigatory work, inform and seek support with a number of functions. There are also alternative paths to use if you do not want to talk with the manager responsible about what has happened. Further advice and support at www.hv.se/likavillkor

Employee	Student
<ul style="list-style-type: none"> • HR specialists • Union representative • Chief safety representative • Local safety representatives <p><i>The person who receives the information is responsible for informing the responsible manager, alternatively the head of work unit. Make sure you have the person's consent before you involve other parties.</i></p>	<ul style="list-style-type: none"> • HR specialists • Student health care centre • Coordinator for students with disabilities • Student representative • You can also talk to programme or course coordinator <p>External support function:</p> <ul style="list-style-type: none"> • The student union <p><i>The person who receives the information is responsible for informing the responsible manager, alternatively the head of work unit. Make sure you have the person's consent before you involve other parties.</i></p>

Routine for how University West investigates discrimination after a report

This section of the routine describes how a formal report shall be made, what the investigation process is and who is responsible for the different steps.

Filing a report

The person who claims to have been subjected to harassment, sexual harassment and reprisals or some other form of discrimination can file a report. A person who has witnessed the events can also file a report. A report about suspected discrimination, harassment and sexual harassment is to be considered a public document received by the university. The case will thereafter be registered by the registrar.

- A report, oral or written, can be submitted to the following functions (not necessarily in this order):
 - Lawyer/investigator
 - Head of HR
 - HR specialist
 - Someone you, as the filer of the report, trust (for example a manager or responsible teacher).

The above persons are in turn responsible to forward the report to the registrar after having noted the report and had it approved by the person who wishes to report. For more information on what a report shall contain and a template for reports, visit www.hv.se/likavillkor

The report can also be sent directly to the registrar at University West, either via e-mail to registrator@hv.se or by post: Högskolan Väst Gustava Melins gata 2, 461 86 Trollhättan

- The report shall contain an account of what has happened, when, where, who has been involved and in what way as well as information about any witnesses. You can also use a form to file a report, which can be found at www.hv.se/likavillkor
- The receiving part informs the manager responsible and the head of work unit, who are responsible for the coming investigation and the measures that are to be taken.
- The report shall be entered into a register and be documented in writing.

The Discrimination Act also contains a ban on reprisals, Chapter 2, Section 18. It primarily regards punishment measures towards the person who has reported or complained that the employer/education provider is violating the discrimination act.

In addition to reporting it to University West, those who are members of a union/student union have the opportunity to contact their organisation for support and help. A union representative can also help file a report directly to the Equality Ombudsman, DO.

If the case regards discrimination, harassment and sexual harassment that is connected to any of the grounds for discrimination gender, transgender identity or expression, ethnicity, religion or other belief system, disability, sexual orientation or age, the report can be sent directly to DO (www.do.se). University West will in that case be given the opportunity to submit a statement to DO and express its view of the case.

Confidentiality and documentation

A report about suspected discrimination, harassment and sexual harassment is to be considered a public document received by the university. The case will thereafter be registered by the registrar⁴.

Investigation

When the report has been submitted to the university the case is processed at the concerned work unit (that is the department or Administration/Library).

- The recipient informs the concerned work unit (division manager and head of work unit) and the respective head of work unit, i.e. head of department/library manager/university director is responsible for the investigation. This person will summon an advisory group consisting of an investigator (lawyer) at the administration and an HR specialist in equal opportunities as well as other experts assessed necessary in the investigation work (for example the occupational health care service). The head of work unit informs the vice-chancellor.

⁴ Public document, see the Freedom of the Press Act (1949:105) Chapter 2.

- The investigator (lawyer) and (potentially) the advisory group will inform everyone involved and the concerned managers about how the case will be handled and commence the investigation. Involved parties will be informed about available support functions.
- The chief safety representative will be informed.
- The investigator (lawyer) will conduct the investigation. The investigation will be carried out speedily, objectively and in a legally secure manner with respect for everyone involved and with the discretion necessary for the situation. The involved parties will be interviewed and that which emerges during the investigation and which is of importance in the case will be shared with the concerned parties who subsequently will be given an opportunity to make a statement. The concerned managers will be kept informed continuously.
- The investigation will be documented in writing, the results will also be recorded in writing and registered.
- During the course of the investigation it may be necessary to take ongoing measures in order to prevent the discrimination from continuing. The respective head of work unit is responsible for taking such measures with support and recommendations from the advisory group.

Decisions and sanctions

When the investigation is concluded the investigator will produce a suggestion for a decision. A decision will be made regardless of what sanctions are applicable and what measures are taken.

Depending on who the decision regards, the formal decision will be made by:

- The head of work unit with support and recommendations from the investigator and advisory group makes decisions in matters of suspected discrimination, harassment and sexual harassment towards an employee (in their work unit) who have been suspected of subjecting someone to discrimination.
- The head of work unit, with support and recommendations from the investigator and advisory group makes a decision in a case when an employee is suspected of having subjected a student of discrimination, harassment and sexual harassment.

If discrimination, harassment or sexual harassment has been found to occur, the vice-chancellor will decide to refer the case to the Staff Disciplinary Committee. The head of HR will then report the case in the Staff Disciplinary Committee. The disciplinary sanctions that can be applicable is a warning and salary deduction. For more serious events it may be a question of termination or dismissal.

- Cases involving a student subjecting another student or employee at the university to such harassments referred to in Chapter 1, Section 4 of the Discrimination Act (2008:567) may, if there is substantiated suspicion, be reported to the vice-chancellor for further investigation as a disciplinary matter where the Disciplinary Committee makes decisions on disciplinary measures towards students. The disciplinary sanctions that can be applicable is a warning or suspension.
- A union representative will be informed in applicable cases.
- Decisions shall be registered and decisions as well as documentation regarding the decision shall be archived with the registrar.

The written decision shall also account for the measures that have been/will be taken, in the form of an action plan. An **action plan** describes what has emerged in the investigation and the analysis that has been made. The action plan shall clearly present what is to be done, who is responsible for ensuring it is done and when it is to be done (time schedule). It should also state how the follow-up of the plan is to be conducted (who is responsible for this, when in what manner). The action plan also need to state what University West is doing to prevent similar events from being repeated and what measures are taken.

When a decision is made it is submitted to the registrar along with the decision documentation.

Measures

The head of work unit and the division manager are responsible for measures being conducted in accordance with the action plan. A measure can be **general** or **specific**.

A **general measure** to prevent and stop discrimination normally contains training staff and informing students and employees about the applicable rules. In a decision for measures it is stated who is responsible for the implementation and how follow-up is conducted.

A **specific measure** targeted at the person who has subjected someone to discrimination means that the case is referred to the disciplinary committee, for students, and to the staff disciplinary committee respectively. The disciplinary committee can make decisions for a warning or suspension.

If there is dissatisfaction regarding the university's written decision, measures of lack of measures the individual can turn to their union and/or DO which then can represent the person in court.

Follow-up and conclusion of a case

It is important that the action plan is followed up. As an employer and education provider, the university has an obligation to follow up on the case and ensure that the harassment has ended. The head of work unit and division manager have a responsibility to follow up on the measures and evaluate them as well as being attentive to the situation/working climate by observing continued or new signs of wrongdoings. Special consideration shall be paid to the victim. Several follow-up conversations initiated by the responsible managers shall be booked and carried out.