



LUND
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Human Resources

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Heads of departments, faculty offices, units/
divisions/equivalent in charge of staff
Human resources officers

Handling and investigating cases of harassment and sexual harassment

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This support material is a living document which is revised and updated at the turn of each year, and as needed. The HR officers at the faculty offices (LU-HR) are notified of any updates to the document.

Introduction

Based on the Swedish Discrimination Act (2008:567), the present document describes what you as a manager are expected to do when you become aware of harassment or sexual harassment taking place within your organisation.

In addition to the Discrimination Act, this support material is based on recommendations from the Equality Ombudsman (DO) and material from other universities.

The document contains general guidelines which can be applied regardless of whether the events involve staff¹ or students², and are complemented with appendices with different management strategies depending on whether those who are subject to/commit harassment are staff or students. Investigations of victimisation,³ which are to be included in the systematic work environment management, involve special procedures; however, they may follow the same structure as in the present support document.

Some important terms to remember:

- **Investigate** – find out what actually happened.
- **Take action/prevent** – put a stop to it through reprimands and by implementing preventive measures.
- **Follow up** – make sure that the measures taken were sufficient and had the intended effect. Draw conclusions about preventive work for the future.

Obligations of the head of department/manager

As a head of department/manager, your obligation to investigate and to take action applies to all forms of harassment that occur in connection with the activities at your organisation, regardless of whether the harassment is committed by staff or students.

Depending on the situation, the obligation to investigate may also apply to cases where the events occur outside the University if they continue when the student is at the department/in teaching contexts or when the employee is at work. The events could, for example, take place on the way to or from work/class, or through social media, and have a negative effect on the person's work/studies. For example, a person may harass a colleague/fellow student through social media outside the work place/study environment. The victim is reminded of the harassment every time they meet the harasser, which could have a negative effect on their work/study environment and their performance.

Preventive work – active measures

All managers at Lund University are required to work preventively against all forms of discrimination and victimisation. As of 1 January 2017, the work to prevent

¹ Includes managers, doctoral students in accordance with Chapter 5, sections 1–7 of the Higher Education Ordinance, interns, job applicants, temporary staff and equivalent.

² Includes research students (without a doctoral studentship in accordance with Chapter 5, sections 1–7 of the Higher Education Ordinance) and study applicants.

³ According to the Swedish Work Environment Authority (AFS 2015:4), victimisation refers to actions directed against one or more employees/students in an abusive manner, which could lead to ill health or their being placed outside the community of the workplace/study environment.

discrimination also includes prohibition against reprisals.⁴ The work to implement active measures against discrimination takes place at all levels of the University, some of which is documented in the new procedures concerning the systematic preventive work against discrimination.⁵

In order to prevent discrimination and harassment within your organisation, you are required to annually review and to “keep a finger on the pulse” of the organisation, the work environment and the working climate. If you find tendencies of something that could lead to an unhealthy organisational and social work environment, take action immediately and enlist the help of the support functions available to implement preventive measures. This way, the organisation will hopefully avoid lengthy and difficult consequences later.

Possible preventive measures:

- Improve procedures, clarify roles and responsibilities.
- Improve contact areas within the department/division.
- Review the workload of staff – is a work environment investigation needed?
- Review and revise procedures to counteract the risk of direct and indirect discrimination.⁶
- Conduct an independent review of the working climate and the way in which you interact with one another, followed by recommended measures. Enlist help from the HR officer at your department/faculty.

Knowledge of harassment or sexual harassment

As a manager, if you become aware of harassment⁷ or sexual harassment⁸ taking place at your division/department/equivalent, you are obliged to take immediate action.

A person who is subject to harassment or sexual harassment may contact a member of staff and discuss the matter. The person who is informed of the incident **must** notify the manager and pass on the information so that an investigation can begin. Inform your employees of this procedure, so that everyone is aware of their responsibilities and to whom they can communicate such issues. Also inform the students of who they can turn to.

Furthermore, if you see something taking place that could be perceived as harassment, you are obliged to initiate an investigation.

For those who want to learn more, there is an online training course available on the Equality Ombudsman website, do.se, intended for higher education institutions. The course focuses on discrimination of students, but the basic principles can be applied to staff as well.

⁴ According to the Discrimination Act, a person may not subject another person to reprisals because he or she has 1) reported or called attention to such actions (harassment/sexual harassment), 2) participated in an investigation under this Act, or 3) rejected or given in to harassment or sexual harassment on the part of the person who allegedly committed such acts.

⁵ A new procedure will be drawn up and implemented in 2017.

⁶ Read more about indirect discrimination on do.se

⁷ According to the law, harassment refers to conduct that violates a person’s dignity and that is associated with one of the grounds of discrimination sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age.

⁸ According to the law, sexual harassment refers to conduct of a sexual nature that violates someone’s dignity.

Investigation

The concept of an investigation may be perceived as extensive, difficult and even threatening, but in this context, the investigation is about finding out what happened. Is it a case of harassment/sexual harassment, or did something else take place? It is not about identifying criminals or assigning punishment – such tasks are to be handled by our law enforcement authorities (police and courts).⁹

The scope, design and process of an investigation of harassment/sexual harassment may vary, depending on the circumstances and parties involved.

The obligation to investigate reports of harassment occurs when an employee finds out that a fellow employee or student feels they are or have been harassed. It does not require proof of an incident. The purpose of the investigation is to acquire sufficient information and knowledge about the situation, so that the investigator can determine whether it is a case of harassment/sexual harassment, or if the events are due to something else that needs to be addressed. In case of harassment, you as a manager (and any appointed investigator), together with the support function, are to assess which measures need to be implemented to put an end to the harassment.

As a manager, it is important that you enlist the help of the support services available at the department/division or faculty. The HR officer at your department/faculty/division can support you in investigations concerning employees. If the investigation concerns students, the Legal Services office at Legal Services and Records Management can provide support with regard to the legal assessment of the situation. It may be that someone other than you is to perform the investigation, for instance the director of studies, which is to be determined on a case-by-case basis. The person who performs the investigation should have sufficient expertise, the ability to act impartially and the trust of the parties concerned. As a manager, you are responsible for making sure that the investigation is conducted, and done so promptly, with integrity and quality.

Conducting an investigation might be to

- appoint an investigator who is impartial, has expertise in the area and the parties' trust
- enlist the support from the HR officer at the faculty/department (who can, among other things, explain the rights and obligations of **staff**)
- enlist the help of someone with special expertise at the Occupational Health Service or Student Health Centre, such as a welfare officer or psychologist, who can make observations, among other things
- consult the Legal Services office at Legal and Records Management who can help make a legal assessment of the situation in the case of **students** harassing other students or employees
- ask all parties involved what happened, including the person who feels harassed and the alleged harasser. Meet with them separately and in private, so that they are not forced to face each other at this stage. State clearly that anything they say will be recorded.
- ask questions to the people around the affected parties if needed (students and/or staff) in private. State clearly that anything they say will be recorded.

⁹ An investigation of harassment/sexual harassment is not to take on the appearance of a criminal investigation. The investigation is only to show whether the incident occurred based on any of the seven grounds of discrimination (sex, gender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age) or any other ground. Sometimes it is not possible to determine with certainty whether the incident constitutes harassment or not, in which case this is to be clearly stated.

The investigation may show that harassment has not taken place, in which case it is important to explain to all the parties involved what led to that conclusion. As a manager, you are to investigate the cause of the situation and take measures to counter the root of the problem. For instance, it could be caused by something in the work environment, such as a heavy workload, unclear roles, personal conflicts, consequences of changes or inadequate procedures.

Investigations of possible cases of victimisation are to be based on LU's systematic work environment management and AFS 2015:4 (read more about Lund University's [systematic work environment management](#) on the website). The investigation can be conducted in the same way as in the present support document, but should include a health and safety representative. Follow the procedures for your systematic work environment management and rehabilitation process, enlist the support from the health and safety representative and work environment coordinator or the HR officer at your organisation.

The incident may be classified as both harassment/sexual harassment and victimisation, in which case it is important to distinguish between the two in the investigation, even if the measures to deal with the cause are the same. The key is to address the root of the problem.

Suspected harassment and sexual harassment often leads to upset feelings among both staff and students. It is therefore important that the conversation between the investigator and the parties concerned is not rushed, and that the people involved receive answers to their questions to the greatest extent possible. Enlist the help of the support functions available within the faculty, the Occupational Health Service or Student Health Centre when preparing, implementing and evaluating these conversations.

Anonymous cases

An investigation of a possible penalty for the person/s found guilty of harassment or sexual harassment cannot be initiated if the employee or student who perceive themselves as the victim of harassment wishes to remain anonymous. However, do not dismiss a person who claims they are the victim of harassment, but rather take their allegations seriously and explain to them that you want to resolve the situation, but that you are only able to implement general preventive measures. If the claim is made anonymously and is brought to your attention through a representative, communicate this information through the representative. As a manager, you can always take general measures of a preventive nature. Enlist the help of the support functions available within your department/faculty when conducting preventive work.

Document registration and confidentiality

Reports of harassment and sexual harassment are to be documented and registered. In order to protect the affected parties you have the possibility to apply a confidentiality procedure when registering documents. This means that the case can only be shown to the administrators of the document registration system. Consult with your immediate registrar. If a request for disclosure is made, contact the Legal Services office at Legal Services and Records Management for a confidentiality assessment. Any parts of the material that are deemed appropriate to keep confidential can be concealed prior to disclosure in accordance with the instructions from the Legal Services office. A decision on confidentiality can be appealed and does not guarantee the individual's privacy.

Reports to the Equality Ombudsman (DO)

A person who feels they are subject to harassment or sexual harassment has the right to report the matter to the Equality Ombudsman (DO), regardless of whether you as a manager is aware of the situation and have conducted an investigation or not.

DO will conduct an investigation on the basis of the individual's report, on which Lund University has the opportunity to comment. If the report concerns your department/division/equivalent, you must compile the information you have of the situation in your response to DO. DO will investigate whether harassment has taken place and whether the organisation has fulfilled its obligation to investigate and implement measures.

You are advised to present documentation as to what preventive measures against discrimination have been/are taken within the organisation, and whether or not the organisation has implemented special measures to resolve an issue in the work environment, etc. It is also important to continuously update the documentation on the systematic work concerning preventive active measures/equal opportunities plan/gender equality plan, etc.

If DO finds that the organisation has failed in its duty to investigate, in its preventive efforts, or that discrimination has taken place, DO will apply for a summons. A summons could lead to a trial and your department/equivalent may be required to pay damages to the victim, as well as the other party's litigation costs.

Take action and put an end to harassment

If harassment has taken place, measures to put an end to them and to prevent recurrence are to be implemented **immediately**. The aim of both the short- and long-term measures is to make sure the harassment stops and is not repeated. The measures you decide to take in each case will depend on the outcome of the investigation conducted.

Possible measures:

- Make those who harass aware that their behaviour is perceived as harassment/sexual harassment under the Discrimination Act, and that the behaviour must stop immediately. Employees are also to be made aware that a recurring offense may result in termination of employment, and students are to be made aware that it could result in a disciplinary measure in the form of a warning or suspension.
- Regularly follow up with the alleged harasser and victim, as well as with others affected by the events.
- Keep a closer watch, particularly in places and at times which have proven risky.
- Intervention efforts with the help of the welfare officer or psychologist from the Student Health Centre or Occupational Health Service, both for the victim and for reported person/s.
- Discuss misconduct if the matter concerns an employee, and the impact on the study environment in case of students.
- Refer the matter to the Lund University Staff Disciplinary Board (PAN) for an assessment concerning disciplinary measures (e.g. salary deductions, prosecution, written warning) if the matter concerns staff, or the Swedish Government Disciplinary Board for Higher Officials (SAN) in cases involving professors. The Disciplinary Board at Lund University handles disciplinary cases concerning students.
- Termination of employment or dismissal of an employee for personal reasons is an extreme measure, which is relevant only in case of a very serious event or repeat offence in spite of a reprimand, warning or other measure. See specific

information on the Staff Disciplinary Board and misconduct available with the HR officer at your faculty/equivalent.

Reprimands and corrective action discussions

As a manager, you should take the opportunity to reprimand/conduct a corrective action discussion with the person who is subjecting others to harassment/sexual harassment. The person is entitled to have another person (union representative, student representative or other) present for support.

In the discussion, you are to inform the employee/student of what they have done wrong, why the behaviour is not permitted and that it must not happen again. You are also to specify the measures which require the concerned party's participation in order to prevent future incidents, and what the consequences will be if they do not participate, alternatively, repeat the behaviour. The conversation is to be recorded and the person concerned is to receive a copy of the documentation. This is a good first step which is sometimes sufficient. Repeat as necessary.

The faculty may report employee misconduct to the Staff Disciplinary Board (PAN) in case of an incident of a particularly serious nature (e.g. threats of violence) or if the person has continued to harass despite repeated documented reprimands. The measure to be taken, in the form of a warning, salary deduction, prosecution, suspension, termination of employment for personal reasons or dismissal, may be determined by PAN. In cases concerning professors, the Government Disciplinary Board for Higher Officials (SAN) will determine which disciplinary measure is to be taken, except for termination of employment for personal reasons, which is to be decided by PAN. Human Resources will provide support to the HR officer at the faculty when reporting a case to PAN/SAN.

In case of a reasonable suspicion that a student is subjecting another student or employee at the University to harassment/sexual harassment, the matter shall be reported immediately to the vice-chancellor. The vice-chancellor will have the matter investigated and subsequently decide whether or not it is to be referred to the Disciplinary Board. The Disciplinary Board will decide whether to warn or suspend the student.

Follow up on the measures taken by the department/division/equivalent

In order to make sure the harassment is not repeated, as a manager you should follow up and evaluate the measures taken. If it turns out that the measures were insufficient, you need to consider what further measures can be taken to stop the harassment. Enlist the help of the support functions at your department/faculty. If the problem goes beyond your department/division, raise the issue with your line manager.

Continuous documentation

Continuous documentation of the investigation and the measures taken creates an important basis for the follow-up of the effects of the measures. If the matter is to be addressed by PAN, all aspects of the case are to be documented in a thorough and comprehensive way. Reports filed anonymously will not be processed by PAN. Through the process of documenting, you might also discover whether the occurred harassment is part of a larger problem that requires more extensive general efforts.

Appendix 1 – Harassment and sexual harassment of/by employees

Approaching the victim

If you become aware that an employee¹⁰ at your department/division/equivalent feels harassed or sexually harassed you must immediately launch an investigation. The investigator¹¹ is to speak with the affected parties to get an idea of what happened. As a manager, you are to make sure that the employee is offered support through the Occupational Health Service. Enlist the help of the HR officer at your department/division/faculty if the employee is in need of further support.

Be sure to let the employee know that they cannot be anonymous in the investigation,¹² but that their privacy will be protected as far as possible. Keep the employee regularly updated on the current state of the investigation. Check to see how the person is doing.

Once the investigation is completed, inform the person of the outcome and of the next step to be taken. Was it found to be a case of harassment/sexual harassment or not? What happens next?

If the person/s accused of harassment belong/s to another department/division/faculty, contact the employee's manager/the student's head of department and coordinate the investigation between the two of you.

Approaching the alleged harasser

If an employee at your department/division has been accused of harassing or sexually harassing a fellow employee or student, you must immediately launch an investigation. The investigator is to speak with the affected parties to get an idea of what happened. As a manager, you are to make sure that the employee is offered support through the Occupational Health Service. Enlist the help of the HR officer at your department/division/faculty if the employee is in need of further support. Stay in contact with the person and provide regular updates on the current state of the investigation. Was it found to be a case of harassment/sexual harassment or not? What happens next?

If you find that the person reported has harassed/sexually harassed a fellow employee or student, as a manager you are to notify the reported person of the outcome. Inform the person of your conclusion, let them know that their behaviour must cease immediately, and that it, under no circumstances, can happen again. Clearly inform the person that harassment and sexual harassment is prohibited by law, and that a repeated offence could jeopardise their employment.

Depending on how serious the harassment/sexual harassment has been (the damage it caused the victim, department, faculty, university, and the damage it may cause in the future), or if a less serious offence is repeated several times despite reprimands and implemented measures, it may be appropriate to report the employee to the Staff Disciplinary Board (PAN) or the Government Disciplinary Board for Higher Officials (SAN). When reporting a case to PAN or SAN, enlist the help of the HR officer at

¹⁰ Includes managers, doctoral students in accordance with Chapter 5, sections 1–7 of the Higher Education Ordinance, interns, temporary staff and equivalent

¹¹ See previous section *Investigation* in the main document *Handling and investigating cases of harassment and sexual harassment*

¹² See under the heading *Anonymous cases* in the section *Investigation* in the main document

your faculty. Procedure must be followed to ensure that the case is handled with legal certainty.

If the person who feels harassed/sexually harassed belongs to another department/division/faculty, contact the person's manager/the student's head of department and coordinate the investigation between the two of you.

Appendix 2 – Harassment and sexual harassment of/by students

Approaching the victim

If you become aware that a student¹³ at your department/division feels harassed or sexually harassed, you must immediately launch an investigation.

The Legal Services office at Legal Services and Records Management can provide support with regard to the legal assessment of the situation. The investigator¹⁴ will discuss the matter with the student and any other affected parties to get an idea of what happened. As the head of department, you are to make sure that the student is offered support by the Student Health Centre.

Be sure to let the student know they cannot be anonymous in the investigation,¹⁵ but that their privacy will be protected as far as possible. Keep the student updated on the current state of the investigation. Check to see how the person is doing.

Once the investigation is completed, inform the person of the outcome and of the next step to be taken. Was it found to be a case of harassment/sexual harassment or not? What happens next?

If the person/s accused of harassment belong/s to another department/division/faculty, contact the person's manager/the student's head of department and coordinate the investigation between the two of you.

Approaching the alleged harasser

If a student at your department/division has been accused of harassing or sexually harassing a fellow student or an employee, you must immediately launch an investigation. Contact the Legal Services office at Legal Services and Records Management for support in your investigation. The investigator is to speak with the student and the others concerned to get an idea of what happened. As the head of department, you are to make sure that the employee is offered support through the Student Health Centre. Check to see how the student is doing throughout the investigation.

If you find that the person reported has harassed/sexually harassed a fellow student or employee, as the head of department you are to notify the reported person of the outcome. Inform the person of your conclusion, let them know that their behaviour must cease immediately, and that it, under no circumstances, can happen again. Clearly inform the person that harassment and sexual harassment is prohibited by law. Reasonable suspicions that a student is subjecting another student or employee at the University to harassment or sexual harassment shall be reported immediately to the vice-chancellor. The vice-chancellor will have the matter investigated and subsequently decide whether or not the matter is to be referred to the Disciplinary Board. The Disciplinary Board will decide whether to warn or suspend the student.

¹³ Includes research students (without a doctoral studentship in accordance with Chapter 5, sections 1–7 of the Higher Education Ordinance) and study applicants

¹⁴ See previous section *Investigation* in the main document *Handling and investigating cases of harassment and sexual harassment*

¹⁵ See under the heading *Anonymous cases* in the section *Investigation* in the main document

If the person who feels harassed/sexually harassed belongs to another department/division/faculty, contact the person's manager/the student's head of department and coordinate the investigation between the two of you.

Appendix 3 – Harassment and sexual harassment of/by managers

It may be case that the harassment/sexual harassment is committed by/against a manager, in which case that person's manager¹⁶ is responsible for the investigation. The same procedure applies as in cases of suspected harassment of/by employees or students, depending on the circumstances.

¹⁶ In accordance with the current *Regulations on the allocation of decision-making powers at Lund University*