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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, including reprisals

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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.

This support material is based on the Discrimination Act and advice from the Equality Ombudsman (DO).

The document contains general guidelines which, in different parts, can be applied regardless of whether the events involve staff¹ or students², and are complemented with appendices with different management procedures 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.

Checklist for what you, as a manager, need to do:

1. Investigate: Find out what has happened as soon as you receive information that someone feels harassed. Start by talking with the affected parties as soon as possible.
2. Put an end to ongoing harassment: if the investigation finds that harassment has taken place, you must take measures immediately. It may take the form of a corrective action discussion, redeployment or warning, depending on what has happened.
3. Follow up on the situation to ensure that the harassment has ceased. If the harassment has continued, the measures were not sufficient. You must then consider further measures to put an end to the harassment.
4. Prevent: you must adopt active measures to prevent discrimination, including harassment and sexual harassment. Read more about active measures at http://www.hr-webben.lu.se/sites/hr-webben.lu.se/files/systematic_preventive_work_against_discrimination.pdf tx2018-06-12. You must have local procedures to prevent harassment and sexual harassment. You need to be clear that the workplace does not accept sexual harassment, harassment connected to any of the grounds of discriminations or reprisals. Among other things, procedures should clarify who a person should turn to if they feel harassed.

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 <http://www.hr-webben.lu.se/arbetsmiljo/krankande-sarbehandling>

The employer

Pursuant to the Discrimination Act, the employer is the person who is authorised to make decisions in matters concerning a person who, with respect to the employer,

1. is an employee
2. is enquiring about or applying for work,
3. is applying for or carrying out an internship or
4. is available to perform work or is performing work as temporary or borrowed staff

Within Lund University, managers with responsibility for staff are primarily considered to be employers, which includes heads of departments, heads of divisions etc. The wording ‘the right to make decisions in matters concerning’, however, means that other roles/functions may be considered employers in accordance with the Discrimination Act, e.g. staff who lead the work of others but do not take decisions on salaries, appointments or recruitment. Above all, this has significance in relation to the prohibition on discrimination and on reprisals, but also in relation to when the employer is made aware of harassment and sexual harassment.

The education provider

Pursuant to the Discrimination Act, employees and contractors engaged in the organisation shall be equated with the education provider when they are acting within the context of their employment or contract. This means that their decisions, actions and negligence are covered by the prohibition on discrimination. This also means that there is an obligation to investigate as soon as an employee or contractor becomes aware that a student is suspected to have been the victim of harassment or sexual harassment.

When do the obligations of the head of department/manager apply?

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. If a student is suspected of harassment or sexual harassment, the case is to be reported to the vice-chancellor who can pass the case on to the disciplinary board⁴.

The obligation to investigate applies to all activities that have a natural connection to work and academic activities and may therefore, depending on the situation, also apply to cases where the events have occurred outside the University. The events, for example, may take place during business travel, staff parties, study trips, as well as events that happen in a person’s leisure time may be considered to be harassment or sexual harassment in the workplace or study environment. It could, for example, be something that happens on the way to/from the workplace/study environment or via social media that has a negative impact on the person’s work/studies. For example, a person may harass a colleague/fellow student through social media but not in the workplace/study environment. In each individual case the perceived strength of the connection to the work

⁴ <http://www.medarbetarwebben.lu.se/forska-och-utbilda/stod-till-utbildning/disciplinarenden>

environment/study environment must be assessed as well as the potential impact of the events on these environments.

Preventive work – active measures

All managers at Lund University are required to work systematically and preventively against all forms of discrimination and reprisals as well as working preventively against victimisation. As of 1 January 2017, [the systematic preventive work against discrimination](#)⁵ also covers risks of discrimination or reprisals on the grounds for discrimination (Chapter 3 Section 2 point 1 of the Discrimination Act). The systematic preventive work to implement active measures against discrimination is to be done at all levels of the University.

In order to prevent discrimination and harassment within your organisation, you are required to annually review whether there are risks of discrimination and reprisals or other obstacles to the rights and opportunities of individuals within your organisation, as well as putting measures in place to eliminate or reduce the risks. 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.
- Raise staff awareness of the procedures for dealing with harassment and sexual harassment and what constitutes harassment and sexual harassment according to the law. Raise staff awareness of their obligation to comply with legislation.
- Review the workload of staff – is a work environment investigation needed?
- Discuss how you interact with one another and how you would like things to be. Work together to achieve this.
- 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 investigate immediately (look into the specific circumstances). Having knowledge of harassment means that you have in some way found out from someone else (e.g. through a report or someone mentioning an event) or that you have yourself seen or heard something which could constitute harassment or sexual harassment.

⁵ <http://www.hr-webben.lu.se/arbetsmiljo/diskriminering/systematiskt-forebyggande-arbete-mot-diskriminering>

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. It may be looks, references, comments or physical advances, however, it is always unwelcomed by the victim

Speak to the staff about how a report is to be dealt with in your organisation, and who is to receive it if it is not you as the manager, so that all staff members are aware of their responsibility and whom to refer cases to. Also inform the students of whom they can turn to.

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.

Reprisals

Pursuant to Chapter 2, Section 18 of the Discrimination Act, an employer may not subject an employee to reprisals because the employee has

1. reported or called attention to the fact that the employer has acted contrary to the Discrimination Act
2. participated in an investigation under the Act, or
3. rejected or given in to harassment or sexual harassment on the part of the employer.

A person who is alleged to have acted contrary to the Discrimination Act may not subject an individual to reprisals because that individual has

1. reported or called attention to such actions,
2. participated in an investigation under the Act, or
3. rejected or given in to harassment or sexual harassment on the part of the person who is alleged to have engaged in discrimination.

Investigation

Investigation when a student is the alleged harasser

A well-founded suspicion that a student has subjected another student or employee at the University to harassment or sexual harassment is to be reported to the vice-chancellor who can pass the matter on to the disciplinary board. The departments can draw up a procedure detailing who at the department is to formally compile such a report. The matter is investigated by the Legal Division on behalf of the vice-chancellor.

Investigation when an employee is the alleged harasser

As a manager, you are obligated to conduct an investigation immediately when you obtain knowledge that an employee is suspected to have harassed/sexually harassed another employee or student.

Investigation pursuant to the Discrimination Act

Pursuant to the Discrimination Act, the aim of investigating is partly to receive sufficient information and knowledge of the situation so that the investigator can assess if the matter constitutes harassment in connection with any of the grounds for discrimination, or sexual harassment, or if the events are due to something else that requires measures to be put in place. Another part of the aim is to receive sufficient information about what has happened and the reasons for it, so that the manager/education provider is able to put in place preventive measures to avoid it happening again. The manager/education provider must also ensure that the person

who has made the report is not at risk of reprisals, e.g. by letting the alleged harasser know that reprisals are prohibited.

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. It may be that someone other than you is to perform the investigation, such as another manager or an external consultant, 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 into an employee's misconduct might be to

- appoint an investigator who is impartial, has expertise in the area and the parties' trust
- register the report (if you do not receive it in writing, make an official note in the register), and all documentation (documents written and received) relevant to the case as it proceeds.
- enlist the support from the HR officer at the faculty/department (who can, among other things, explain the rights and obligations of **staff**)
- in the investigation, enlist the help of someone with special expertise at the Occupational Health Service, such as a welfare officer or psychologist, who can make observations, among other things
- 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.
- interview the people around the affected parties if needed, staff or students, in private. State clearly that anything they say will be recorded.
- ensure that both the victim and the alleged harasser receive updates on the current state of the investigation, what is to happen next and the expected timeframe
- ensure that both the alleged harasser and the victim have access to all the material related to the matter. They have a legal right to access it.

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 (read more about Lund University's [systematic work environment management](#) on the HR website, only in Swedish). 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 those involved in the investigation. 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 accused 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.

Take knowledge/reports seriously and, if possible, explain to the person 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. Make an official note that you have obtained knowledge about the harassment, or save the email/message and register it so that the next manager can have access to the history if something similar were to happen in the future involving the same people. Document the measures you put in place and save these together with the official note.

You can always take general measures of a preventive nature, e.g. a workshop on how you relate to one another or a work environment investigation to investigate the collaborative atmosphere. If you yourself see or hear something that could be perceived as harassment/sexual harassment, which is relevant to the anonymous report, you are of course to begin an investigation on the basis of your own observations. Also, enlist the help of the support functions available within your department/faculty when conducting preventive work.

Document registration and confidentiality

Reports or knowledge of harassment and sexual harassment are to be documented and registered in accordance with the University's [procedures for records management](#)⁹.

If the report is made verbally or you obtain knowledge of suspicions in a similar way, it is to be documented in official notes and registered. All material of importance to the investigation and any decision are to be documented and registered.

In order to protect the affected parties you have the possibility to mark the case as confidential when registering documents. This means that the case can only be shown to the administrators of the document registration system. However, confidentiality of the documents is not guaranteed if there is a request for disclosure of them as public documents. Consult with your immediate registrar. Each time a request for disclosure is made, a confidentiality assessment is to be carried out. Where it is legally justified, any parts of the material can be kept confidential by being redacted prior to disclosure. Even if the University decides to mark the case as confidential it is important to understand that this can be overturned in a court of law.

⁹ <https://www.medarbetarwebben.lu.se/stod-och-verktyg/juridik-dokument-och-arendehantering/dokumenthantering>

Read more about document registration on the Staff Pages:

<https://www.staff.lu.se/support-and-tools/legal-and-record-management/record-management/document-registration>

Police report

Both harassment and sexual harassment can be of the kind that only falls within the investigation obligations of the University, with the aim of creating or maintaining a good work environment. Sometimes the events can be of the kind that is considered criminal in accordance with the Swedish Penal Code and must therefore be reported to the police. In most cases it is the victim themselves who is to file the police report, however, as a manager you can offer support to the victim, e.g. through the Occupational Health Service or by reminding them of the health and safety representative and union representatives. An event may also be considered a crime of some kind against the University; in this case, the University is to file a report with police. Talk to the University security for help and support in the assessment.

If a person has reported a case to police that you have been made aware of and involves an obligation to investigate in accordance with the Discrimination Act, you must consult with the Police about the current stage of the criminal investigation.

Please discuss unclear cases with your local HR officer and the Division of Human Resources. For example, in cases where an event has taken place outside the University and reported to police, but that may have an impact on the work environment.

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, know about the harassment and have conducted an investigation or not.

DO will assess the individual's report and Lund University has the opportunity to comment. If the report concerns your department/division/equivalent, you must compile the information you have on the matter for DO.

If the case involves an employee who has allegedly harassed someone, you will receive support from the Division of Human Resources on the formal response to DO.

If the case involves a student who has allegedly harassed someone, the Legal Division will produce the formal 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 have current and updated documentation

on the systematic work concerning preventive work against discrimination (SFAD¹⁰).

If DO finds that the organisation has failed in its obligation to investigate, in its preventive efforts, or finds that discrimination has taken place, DO may in certain cases apply for a summons. A summons could lead to your department/equivalent being 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 or sexual harassment have 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, that it is prohibited and that the behaviour must stop immediately. Employees are also to be made aware that a recurring offense may result in termination of employment.
- 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.
- If the alleged perpetrator is an employee: 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.
- Termination of employment or dismissal of an employee for personal reasons are extreme measures, which are relevant only in case of a very serious event or repeat offence in spite of a reprimand, warning and other measures. See manager support material on misconduct available from the HR officer at your faculty/equivalent.

Reprimands and corrective action discussions with the employee responsible for the misconduct

As a manager, you should take the opportunity to reprimand/conduct a corrective action discussion with the person who you have found to be subjecting others to harassment/sexual harassment. Harassing someone sexually or otherwise constitutes misconduct. The person is entitled to have another person (union representative or other) present for support. Read more in the support material for managers on misconduct, to which your HR coordinator has access.

¹⁰ <https://www.hr-webben.lu.se/arbetsmiljo/diskriminering/systematiskt-forebyggande-arbete-mot-diskriminering>

In the discussion, you are to inform the employee 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 in which the employee is expected to participate to prevent future incidents, and what the consequences will be if they do not participate or if they repeat the behaviour. The conversation is to be recorded and the employee is to receive a copy of the documentation. This is a good first step in many cases, 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 take decisions on labour law sanctions, except for termination of employment for personal reasons, which can be decided by PAN. In this case, Human Resources shall be consulted and will then assess whether the case should be reported to PAN or to SAN.

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 you have put in place for the individual and in the department/division/equivalent. If it turns out the measures were insufficient, you need to consider what further measures can be taken to stop the harassment or to prevent anything similar from happening again. 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 investigated, managed and documented in a thorough and comprehensive way. Through the process of documenting, you might also discover whether the harassment is part of a larger problem that requires more extensive general interventions.

Appendix 1 – Harassment and sexual harassment of/by employees

Coordinating an investigation between managers

If the person/s who feel(s) harassed/sexually harassed or the alleged harasser are affiliated to different departments/divisions or faculties, each person's manager shall collaborate on the investigation. Both managers are obligated to initiate an investigation, however, these do not need to be separate investigations but can be one coordinated investigation.

Approaching the victim

If you become aware that an employee (including managers, doctoral students, employees according to Chapter 5 Sections 1–7 of the Higher Education Ordinance, interns, externally hired staff and equivalents) at your department/division/equivalent feels harassed or sexually harassed by another employee, you must immediately launch an investigation. The investigator is to interview the affected parties to get an idea of what has happened, and/or access the material related to the matter. 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 if a full investigation is to be conducted. Keep the employee regularly updated on the current state of the investigation. Any party of a case has the right to access all material related to the case. Check to see how the employee is doing. Once the investigation is completed, inform the person of the outcome and of the next step to be taken.

If you find that the alleged harasser has harassed/sexually harassed another employee or a student, as a manager you must have a conversation with the victim and inform them of this. Also explain which measures are to be put in place to resolve the problem.

If you find that it is not possible to determine if the actions constitute harassment/sexual harassment, as a manager you must inform the employee about this. Go through the investigation and explain why it is not possible to conclude that harassment/sexual harassment has taken place. Be clear that you will continue working on the problem that has led to the report, regardless of whether this is due to personal conflict, unclear roles or something else. There is to be a good work environment for all employees.

Regardless of the result of the investigation, provide the person with ongoing counselling via the Occupational Health Service.

If the employee feels harassed/sexually harassed by a student, a report is to be promptly submitted to the vice-chancellor. Here, your role as a manager will primarily be to provide support to your employee through the Occupational Health Service, for example.

It is important that you, as manager, are clear that reprisals are prohibited.

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 interview the affected parties and/or access the material related to the matter, to get an idea of what has 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 for support during the investigation. Stay in contact with the person and provide regular updates on the current state of the investigation. A person who is a party in a case has the right to access all material relating to the case. Was it found to be a case of harassment/sexual harassment, or not? What happens next?

If you find that it is not possible to determine if the actions constitute harassment/sexual harassment or that it does not constitute harassment/sexual harassment, as a manager you shall inform the alleged harasser about this. Be clear that you will continue working on the problem that has led to the report, regardless of whether this was due to personal conflict, unclear roles or something else. There is to be a good work environment for all employees.

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 under no circumstances, is it to happen again. Clearly inform the person that harassment and sexual harassment are 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 your faculty. Procedure must be followed to ensure that the case is handled in accordance with the law.

It is important that you, as a manager, are clear that it is prohibited to subject the person who has experienced or reported someone for harassment or sexual harassment to reprisals.

Appendix 2 – Harassment and sexual harassment of/by students

Approaching the victim

If you or another employee or contractor within the University obtain knowledge that a student at your department/division feels harassed or sexually harassed by an employee, you must immediately launch an investigation. If the student feels harassed by another student, the case must be reported immediately to the vice-chancellor, who can refer the case to the disciplinary board.

As the head of department, you are to ensure that the student is offered support by the Student Health Centre.

Be sure to let the student know they cannot remain anonymous if a full investigation is to be conducted. Keep the student updated on the current state of the investigation. Check to see how the student is doing.

Once the investigation is completed, be clear about 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 who feel/s harassed/sexually harassed 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 you or another employee or contractor within the University become aware that a student at your department/division has been suspected or reported for harassing or sexually harassing a fellow student or an employee, you must immediately report the case to the vice-chancellor who will refer it to the disciplinary board. The student suspected of harassment/sexual harassment should also be offered support by the Student Health Centre. Check to see how the student is doing throughout the investigation.

If the person/s suspected of harassment belong/s to another department/division/faculty, contact the suspected person's manager/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 manager, in accordance with current rules on delegation, is responsible for the investigation. The same procedure applies as in cases of suspected harassment of/by employees or students, depending on the circumstances.