

Administrative Procedure Regarding Harassment, Sexual Harassment and Victimisation

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Summary

This Administrative Procedure describes the manager's responsibility when processing cases of harassment or sexual harassment under the Discrimination Act (*SFS 2008:567*), and the manager's responsibility when processing cases of victimisation in accordance with the Swedish Work Environment Authority's Regulations on the Organisational and Social Work Environment (*AFS 2015:4*). This Administrative Procedure covers both staff and students.

In addition to investigating and correcting the perceived events, the University must assess and remedy any risks or shortcomings in the work environment in conjunction with processing and investigating cases of harassment, sexual harassment or victimisation.

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Introduction

The purpose of this Administrative Procedure is to describe the work involved in investigating harassment, sexual harassment and victimisation at the University of Gothenburg. Investigating the events involves finding out what has happened, making the work environment safe for those who feel victimised and others who are affected by the events to ensure a good work environment or study environment.

The Administrative Procedure is written from the perspective of providing managers with information about their obligations and how to proceed in such cases. Additional easily accessible information for employees and students can be found on the Staff Portal or the Student Portal.

The work and study environments at the University of Gothenburg must be free from harassment, sexual harassment and victimisation. This is achieved in part by working preventively but also by investigating and correcting cases of harassment, sexual harassment or victimisation with respect, objectivity and systematically.

This Administrative Procedure ensures a uniform and University-wide process for investigating cases of harassment or sexual harassment under the Discrimination Act (SFS 2008:567) and cases of victimisation under the Swedish Work Environment Authority's Regulations on the Organisational and Social Work Environment (AFS 2015:4).

Both cases concerning employees and students should be investigated in accordance with this Administrative Procedure.

Limitations and definitions

This Administrative Procedure only concerns cases involving harassment, sexual harassment and victimisation based on the definitions below. Cases with no connection to any of these terms are to be handled in accordance with the regulations and/or governing documents that the case concerns.

For an event involving harassment, sexual harassment and victimisation to become the subject of an investigation by the University of Gothenburg, the actions complained of must also be related to work or studies.

'Employee' means all employees: indefinite-term employees, fixed-term employees, part- and full-time employees, those employed for a specific project, leased employees (either by or to the University), temporary replacements, students on placement and apprentices. 'Student' refers to those who have been admitted to and are pursuing higher education studies.

'Employer' refers to staff who represent the employer in relation to the employee, and 'education provider' refers to staff who encounter students in the performance of their duties.

Definitions of harassment and sexual harassment follow those in the Discrimination Act (SFS 2008:567).

Harassment: 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.

Sexual harassment: Sexual harassment is conduct of a sexual nature that violates someone's dignity.

The definition of victimisation follows that in the Swedish Work Environment Authority's Regulations on the Organisational and Social Work Environment (AFS 2015:4).

Victimisation: Actions in an abusive manner at one or more employees that may lead to ill health or to exclusion from the workplace community.

Responsibility

The manager is responsible for promptly investigating and correcting harassment, sexual harassment or victimisation, which follows from the University's delegation of managing work environment management for employees and students.

The obligation to investigate also covers situations where employees or students experience that they have been subjected to harassment, sexual harassment or victimisation by a person outside the University of Gothenburg, if the event is related to their work or studies.

When the manager becomes aware that a person has or feels that they been subjected to harassment, sexual harassment or victimisation, the manager must inform the employee or student about how such cases are investigated and processed, that is, inform them about the work that must be done under this Administrative Procedure.

All employees and students have a responsibility to contribute to a safe and sustainable work and study environment by participating in this work, following the University's work environment rules, reporting risks and always safeguarding their own and others' health and safety. Employees and students at the University of Gothenburg must participate in any investigations of harassment, sexual harassment or victimisation initiated by the University.

Relationship to other work in occupational health and safety and equal treatment

When events occur that indicate a risk of ill-health, established ill-health or lack of equal treatment, two processes must begin running in parallel. The case must be investigated in accordance with this Administrative Procedure, and information concerning the events must be dealt with in the University's systematic work environment management or ongoing work with active measures under the Discrimination Act.

Documentation

Documentation in cases of harassment, sexual harassment and victimisation must be handled in accordance with the University of Gothenburg's document management plan.

Initial measures

The manager must undertake initial measures to prevent the harassment, sexual harassment or victimisation from continuing. These measures must be taken in consultation with the health and safety representative or the student health and safety representative, but in cases where the risks demand more urgent action, the manager may undertake measures before informing the health and safety representative and the student health and safety representative.

Any indication that harassment, sexual harassment or victimisation is occurring is to be interpreted as a health risk in the social work environment. This risk needs to be assessed and necessary measures taken, initially as well as during a possible investigation.

Support to the affected parties

The manager must offer all affected parties support from the Occupational Health Services and Student Health Services, and inform them about the support that they can get from, for example, unions and the student and doctoral student representatives at the time of their initial contact with the affected parties.

Protection against reprisals

The manager is obliged to ensure that neither the University of Gothenburg nor any of its representatives subject employees or students to reprisals. The protection against reprisals applies to those who:

- have reported discrimination, harassment, sexual harassment or victimisation
- have called attention to events where a person is breaching the Discrimination Act or has victimised another person
- participate or have participated in an investigation into discrimination, harassment, sexual harassment or victimisation.
- have rejected or given in to harassment, sexual harassment or victimisation by the person who is alleged to have engaged in discrimination.

Process overview

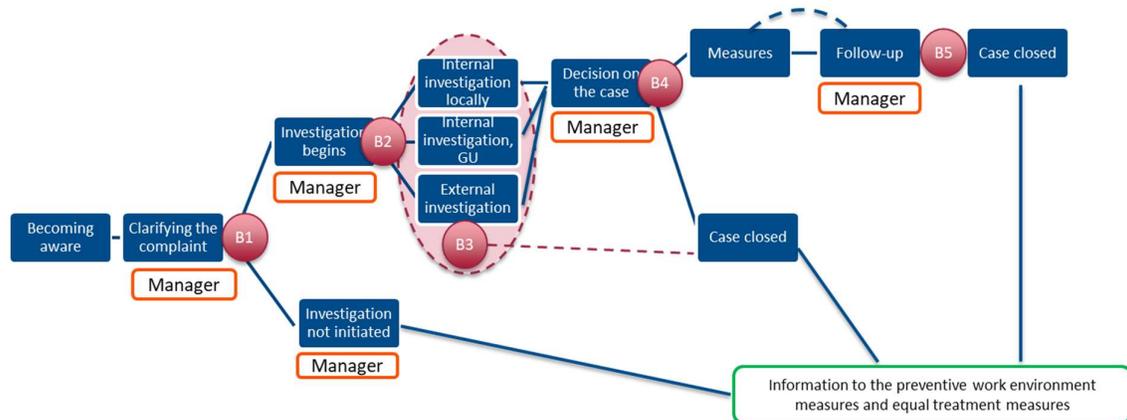
The handling of cases concerning harassment, sexual harassment and victimisation follows a process with activities that are to be conducted and clear decision points where the responsible manager makes a decision on the next step.

The decision points are:

- B1. whether or not an investigation is to be initiated
- B2. whether the investigation is to be carried out internally or externally
- B3. where it emerges from the investigation that the case does not concern harassment, sexual harassment and victimisation, the investigation must be terminated
- B4. what decision the responsible manager makes based on the facts that have emerged from the investigation, and decisions on possible measures
- B5. if measures have been taken, after follow-up of the measures, the manager decides to close the case.

The activities in the process are described separately in the next section.

Process for investigating cases of harassment, sexual harassment or victimisation



The different stages in the process

Becoming aware

When the employer or the education provider becomes aware that employees or students at the University of Gothenburg are experiencing that they have been subjected to harassment, sexual harassment or victimisation, an obligation arises to investigate the circumstances.

Clarifying the complaint

To investigate whether harassment, sexual harassment or victimisation has occurred, there must be:

- a complainant who experiences that they have been subjected to harassment, sexual harassment or victimisation
- a complainant who is willing to participate in the investigation (and therefore cannot remain anonymous)
- clearly described, concrete actions that the complainant considers to be harassment, sexual harassment or victimisation.

The manager is responsible for clarifying the complaint and its circumstances well enough to decide on how to process the complaint. If the above three elements are met, the responsible manager must decide whether or not to initiate an investigation.

Common methods for clarifying which concrete actions are considered to be harassment, sexual harassment or victimisation and who is the victim are:

- conversations with the complainant
- asking for a complaint in writing and additional clarification of the complaint in writing.

There may be situations where a more extensive enquiry is needed to clarify whether an investigation is needed and what should be investigated. However, it is important that this should also be done systematically, with respect and objectivity, and not replace an investigation where one is warranted.

To conduct an investigation, the concrete actions that have emerged in the clarification of the complaint must be documented in writing and confirmed by the complainant.

If the actions reported are such that measures pursuant to labour law may need to be taken, the responsible manager should ensure that a person with competence in labour law is involved in the work without delay.

If there are not sufficient grounds to proceed with an investigation, there may still be reason to investigate deficiencies in the work environment and/or whether or not there is a risk of discrimination. However, the employer cannot pass on anonymous accusations, as to do so may in itself constitute victimisation.

Decision on whether or not to initiate an investigation

Once the responsible manager has clarified the complaint, the manager must make a decision on further processing. There are two choices at this point: to investigate or not.

Complaints must not be investigated under this Administrative Procedure if the complaint does not concern actions targeting one or more persons that fall within the definitions of harassment, sexual harassment or victimisation. If a complaint *is not* investigated further, this information must be communicated to the person who has experienced that they have been victimised.

If a complaint *is* to be investigated, the manager needs to decide on who will conduct the investigation. When determining who will conduct the investigation, impartiality, the degree of seriousness of the complaint and the complexity of the case should be considered.

Systematic and escalated problems should be investigated by someone outside the workplace with sufficient competence to ensure objectivity and to ensure that an objective and systematic investigation is conducted. Such an investigation may be conducted internally by an employee of the University, or by an external contractor. Less serious and isolated problems can be investigated internally within the University at the local level if there is capacity to do so.

Investigation

The investigation must clarify the reported events so that the responsible manager can decide on whether or not the events constitute harassment, sexual harassment or victimisation. The scope of the investigation may vary based on the nature of the complaint and the surrounding circumstances. Affected parties must be heard impartially and treated fairly. The investigation must be conducted with respect and consideration for those involved.

Regardless of where the investigation is conducted, it must include the following elements:

- an objective examination of the concrete actions/events described
- a factual examination of the account/s of the identified person/s concerning what has been described
- an assessment of the facts supported by evidence in relation to the current regulations on harassment, sexual harassment or victimisation.

And if it is relevant to do so, also:

- an objective examination of the accounts of any witnesses

- an assessment of other data, such as documents, letters, e-mails, minutes of meetings, decisions, screen shots, images, etc.

The manager is responsible for ensuring the competence and suitability of the investigators. An investigation is conducted on the authority of the responsible manager. This authority needs to be clarified for the parties concerned, together with the investigators.

If, during the course of the investigation, information emerges which means that the complexity or seriousness of the case changes, new decisions on the investigation process may need to be made by the responsible manager.

If, during the course of the investigation, it becomes apparent that the case concerns matters that do not fall within the framework of this Administrative Procedure, the investigation must be terminated and be handled in another process where applicable.

Measures based on the investigation

Where the investigation can prove that there has been harassment, sexual harassment and/or victimisation, or where the accused person turns out to be innocent, measures can be taken after the investigation has been conducted.

Measures at group and organisational level are to be communicated to the affected parties. Measures at the individual level must be handled confidentially and must not be communicated to the affected parties.

Only measures implemented based on the results of the investigation are to be communicated to the affected parties.

Decisions based on the investigation

The manager's decision on whether or not harassment, sexual harassment or victimisation has occurred, and decisions on measures must be summarised in writing and recorded in the official record, and communicated to the affected parties in the case. There are no formal requirements for the summary, but it should contain at least:

- what specifically was reported
- who conducted the investigation
- how the investigation was conducted
- what the investigation found to be the facts of the case
- the investigator's assessment of the reported circumstances in relation to any relevant governing documents and the legislation's definition of harassment, sexual harassment and victimisation
- the manager's ultimate decision on the case
- any information about measures taken in connection with the investigation, excluding labour law or disciplinary measures, as well as information about when planned follow-up of the measures will take place.

Follow-up of measures

The responsible manager must plan the follow-up of measures when measures are decided as a result of the investigation. The follow-up must be planned, and must include:

- follow-up of the measures decided

- whether identified risks or deficiencies in the work environment, in systematic work environment management, or the work with active measures pursuant to the Discrimination Act, have been reduced or eliminated by the measures decided.

Close the case

Once an investigation has begun, there are three ways to close a case:

1. the case is closed because it has emerged during the investigation that the case does not fulfil the criteria for investigation under this Administrative Procedure
2. the case is closed because the investigation has not been able to establish that harassment, sexual harassment or victimisation has occurred
3. where the investigation has established that harassment, sexual harassment or victimisation has occurred, the case is closed after any measures and follow-up of these have been implemented.

When the case is closed, the manager must make a decision and state the reason for the case being closed.

If the case is closed during or after an investigation has been conducted, both the person who has experienced that they have been the victim of discrimination, and the person who has been accused of harassment, sexual harassment or victimisation, must be informed of the decision.

If, during the investigation, the complaint is found to concern matters which do not fall within the scope of this Administrative Procedure, the case must be closed. The decision must include a factual and respectful explanation, and may include a referral to the correct process.

More information

The Staff Portal provides method support linked to this Administrative Procedure, including in-depth information material, checklists and contact details for further advice on individual cases.