

Guidelines for the management of suspected harassment, sexual harassment and victimisation

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1 Background and aims

It is the aim of Linköping University (LiU) that the study environment and the university shall be free from harassment, sexual harassment and victimisation. Fundamental requirements for achieving this are active preventive measures and a management procedure for incidents that is characterised by legal certainty, professionalism and respect.

As employer and education provider, LiU has an obligation to investigate and, where necessary, take measures if it becomes aware that a co-worker or student experiences that they have been the victim of harassment, sexual harassment or victimisation. In addition to investigating and taking measures to counteract events that have been experienced, the university is to assess and take measures to remove any risks and shortcomings in the working environment. These guidelines describe how LiU manages this obligation to investigate situations that affect co-workers or students, with the aim of supporting university-wide procedures that are transparent and consistent.

The guidelines are based on the Discrimination Act (2008:567), the Work Environment Act (1977:1160), and the Provisions of the Swedish Work Environment Authority relating to the organisational and social work environment (AFS 2015:4). The provisions contain regulations that deal with how the university manages the working environment and equal opportunities. They also describe how the university is to manage situations in which a co-worker or student experiences that they are the victim of any form of harassment or victimisation.

A fuller description of how the Discrimination Act is applied at LiU, covering more than the situations in which a co-worker or student experiences that they are the victim of some form of harassment, is given in *Vägledning om diskrimineringslagen*, drawn up by LiU.

2 Definitions

The following terms and expressions are used in these guidelines:

Harassment	Chapter 1, Section 4, Paragraph 4 of the Discrimination Act defines harassment as “conduct that violates a person’s dignity and that is associated with one of the grounds of discrimination: sex ¹ , transgender identity or expression ² , ethnicity, religion or other belief, disability, sexual orientation or age”.
<i>Sexual harassment</i>	Chapter 1, Section 4, Paragraph 5 of the Discrimination Act defines sexual harassment as “conduct of a sexual nature that violates someone’s dignity”.
<i>Victimisation</i>	The Provisions of the Swedish Work Environment Authority on the organisational and social work environment (AFS 2015:4Eng) state that victimisation is “actions in an abusive manner at one or more employees that may lead to ill health or to exclusion from the workplace community”. Bullying is an example of victimising behaviour. LiU uses the term “victimisation” also to describe situations related to education and students in which LiU, in its role as education provider, has overall responsibility for the working environment of students, as specified in Chapter 1 Section 3 of the Work Environment Act.

3 Limitations

3.1 Cases of discrimination not related to harassment

Cases in which a person considers that they have been subject to any other form of discrimination than harassment or sexual harassment are not covered by these guidelines. More information is available in LiU’s *Vägledning om diskrimineringslagen*.

¹ Persons who have undergone or plan to undergo gender correction are included here.

² This ground for discrimination covers those with a gender identity or gender expression that does not conform to binary gender norms, and includes intersex variation, i.e. with a gender-nonconforming body.

3.2 Cases of problems with collaboration, conflicts, etc.

Cases of problems with collaboration and conflicts that can arise during university activities and that are not associated with harassment, sexual harassment or victimisation are not covered by these guidelines. In such situations, the immediate manager has responsibility for dealing with the case. Short-term differences of opinion, conflicts and problems with collaboration can arise at any time during university activities. In most cases, however, these situations do not constitute harassment, sexual harassment or victimisation. Only when a conflict loses its character of mutuality and glides over into actions intended to harm, humiliate or victimise a person does it become a case of victimisation or harassment.

4 LiU's responsibility as employer and education provider

When LiU, in its role as employer or education provider, becomes aware that a co-worker or student considers that they have been subjected to harassment or sexual harassment during their work or studies, it has, according to Chapter 2, Sections 3 and 7 of the Discrimination Act, an obligation to investigate the circumstances associated with the alleged harassment or sexual harassment.

The Organisational and Social Work Environment Provisions (AFS 2015:4Eng) of the Swedish Work Environment Authority state that an employer must, in the event of victimisation or indications of ill-health caused by victimisation, investigate the situation that has arisen such that the risk of victimisation can be prevented and countermeasures taken. The said provisions state that victimisation is to be managed as part of the systematic work with the working environment, which means in practice that deficiencies in the organisational and social work environment are to be investigated, risk-assessed, and counteracted.

In a formal sense, the Organisational and Social Work Environment Provisions of the Swedish Work Environment Authority (AFS 2015:4Eng) do not apply to students. The Work Environment Act, however, places on LiU the responsibility for the work environment of students, which includes active work to combat and prevent all forms of discrimination, harassment and victimisation of students.

Independently of whether an event is defined as harassment by the Discrimination Act or as victimisation by the Provisions of the Swedish Work Environment Authority, it is important that the employer or education provider, when made aware of the situation, carries out an investigation and takes measures to ensure that similar situations or events do not recur.

5 Management procedures

5.1 Management differs for different people involved

The management of harassment, sexual harassment and victimisation differs, depending on who is involved in the incident. For example, incidents that arise between co-workers, between students, and between co-workers and students are all handled differently. The procedures used for the different situations are described below.

5.2 The distinction between victimisation and harassment

If victimising behaviour is believed to be associated with any one of the grounds for discrimination, the case is to be handled as one of harassment.

5.3 Whom to contact in the event of suspected harassment, sexual harassment or victimisation

5.3.1 When a co-worker experiences that they are a victim

Co-workers who experience that they are the victim of harassment, sexual harassment or victimisation are to contact initially the immediate manager or the HR partner at the operational unit. If it is not possible for any reason for the co-worker to contact the immediate manager or HR partner about the events, the co-worker should contact the immediate supervisory manager. The co-worker can also obtain help from the health and safety representative or a representative from an employee association in informing the employer about the situation.

5.3.2 When a student experiences that they are a victim

Students who experience that they are the victim of harassment, sexual harassment or victimisation can initially contact the person with responsibility for the education (course or programme). Depending on how the education is organised, this person can be a programme coordinator, director of studies, teacher with course coordination responsibility, or a similar role. In the following text, the term “the person responsible for the education” will be used. Students can also contact the study adviser, Student Health, a student health and safety representative or the equal opportunities coordinator to inform about the events.

5.4 Responsibility to investigate

5.4.1 When a co-worker experiences that they are the victim of another co-worker

The responsibility for dealing with situations in which harassment, sexual harassment or victimisation occurs between co-workers is part of the employer responsibility held by the manager. The immediate manager (or managers) of the co-workers involved thus have a responsibility to investigate the circumstances of the situation that has arisen. In most cases, those who are closest to the event are most familiar with the situation, and thus an investigation should, as far as possible, be carried out by the immediate manager, with the support of the HR partner of the operational unit. If necessary, the manager and the HR partner can obtain advice on

managing the situation from the Negotiation Office at the Human Resources Division or the equal opportunities coordinator.

The immediate manager is also responsible for taking measures that counteract new or continued harassment, sexual harassment and victimisation. This responsibility remains even in cases in which an extended investigation is carried out, see Section 5.9.

When a co-worker experiences that it is their immediate manager who is subjecting them to victimisation or harassment in any form, the immediate supervisory manager is responsible for investigating the events and taking measures. The immediate supervisory manager may take over responsibility for dealing with a case also when other reasons mean that it may be inappropriate that the immediate manager does so. If an event concerns co-workers from several organisational units, the immediate managers from the operational units concerned have a shared responsibility to investigate the situation that has arisen and take necessary measures.

During the processes of investigation and case management, the responsible manager and the HR partner of the operational unit can obtain support and advice from the Negotiation Office at the Human Resources Division. This may encompass investigation procedures, consultation with those involved, assessment of cases, and determination of suitable measures.

5.4.2 When a co-worker experiences that they are the victim of a student
In situations in which a co-worker experiences that they are the subject of harassment or victimisation by a student, the person responsible for the education and the immediate manager of the co-worker involved hold joint responsibility to investigate the events and the circumstances associated with the situation that has arisen. Support and advice for the procedure can be obtained from the Negotiation Office at the Human Resources Division, the equal opportunities coordinator, and the head of the Student Division.

5.4.3 When a student experiences that they are the victim of another student
When a student experiences that they are a victim of harassment, sexual harassment or victimisation by another student in association with their studies, it is primarily the person with the most direct responsibility for the education who is responsible for dealing with the case and investigating the circumstances of the events. An investigation into the circumstances should be carried out as close to the events as possible, since the best knowledge of what has happened is normally to be found there. In all cases, the manager with immediate responsibility for the operational unit also has responsibility to ensure that the events are investigated and measures taken. If necessary, the responsible person can obtain support in managing the case from the equal opportunities coordinator or the head of the Student Division.

If the events involve students from several programmes or courses, those with responsibility for the education hold joint responsibility to investigate the circumstances around the situation that has arisen.

5.4.4 When a student experiences that they are the victim of a co-worker
When a student experiences that it is a co-worker at LiU who is subjecting them to victimisation or harassment in any form, it is the immediate manager of the co-worker involved who is responsible for investigating the events and taking any necessary measures. It may be relevant to collaborate with the person responsible for the education in such situations. The manager of the person with responsibility for the education can obtain support from the HR partner of the operational unit, the equal opportunities coordinator, or the head of the Student Division.

In cases in which a co-worker at the university may be considered to have behaved in any way inappropriately towards a student, the person with responsibility for the education is responsible to inform the immediate manager of the co-worker about the events as soon as possible. The immediate manager can consult with the HR partner at the operational unit or with the Negotiation Office whether it is necessary to take any measures related to employment legislation.

5.5 Information and support for those involved

5.5.1 Information for co-workers involved

The immediate manager or, where relevant, the immediate supervisory manager, is responsible for providing the following information to the co-workers involved:

1. the support that co-workers involved can obtain as a consequence of the situation that has arisen. Both the person who experiences that they are a victim and the person who has been indicated as perpetrator can be offered general support, including a designated support person, through the occupational healthcare service.
2. that co-workers involved are expected to participate in an ongoing investigation, see Section 5.6
3. that co-workers involved can point out to the chief legal adviser that an extended investigation is required (see Section 5.9), if the case concerns harassment or sexual harassment, or to the director of human resources, if the case concerns victimisation.

5.5.2 Information for students involved

The person or persons who are responsible for managing the case are responsible for providing the following information to students involved:

1. the support that students involved can obtain as a consequence of the situation that has arisen. Both the person who experiences that they are a victim and the person who has been indicated as perpetrator can be offered general support, including a designated support person, through Student Health and the relevant student union.

2. that it is important to participate in the investigation of what has occurred such that LiU can take the necessary measures, see Section 5.7
3. that students involved can point out to the chief legal adviser that an extended investigation is required (see Section 5.9), if the case concerns suspected harassment or sexual harassment, or to the head of the Student Division, if the case concerns suspected victimisation.

5.5.3 Advice from the equal opportunities coordinator

Both co-workers and students can contact the equal opportunities coordinator for advice and information about LiU's management of cases of harassment, sexual harassment and victimisation.

5.6 Co-worker responsibility to participate in an investigation

Co-workers who are involved in reported incidents of harassment or victimisation in any form are responsible for participating in the investigation or, where relevant, extended investigation that LiU, in its role as employer, is obliged to carry out. This may comprise, for example, replying to questions about the reported incidents, describing in a written document what has happened, and contributing in other ways to the investigation of the events.

5.7 Student participation in an investigation

Students who are involved in reported incidents or harassment or victimisation in any form are to be informed of the importance of participating in the investigation of what has happened, such that LiU can take the necessary measures. Participation may comprise that the student is requested to reply to questions, describe in a written document what has happened, and contribute in other ways to the investigation of the events.

5.8 The investigation

The person who is primarily responsible for the management (see Section 5.4) is to follow the steps described below in order to investigate and take measures following the complaint or following own observation of harassment, sexual harassment or victimisation.

Step 1 consult with the person who experiences that he or she has been a victim

Step 2 consult with the indicated perpetrator

Step 3 assess the need for investigation, of the need to refer the matter for an extended investigation (see Section 5.9)

Step 4 conduct an investigation, or refer the case for an extended investigation

Step 5 reach a decision, or obtain information about a decision taken following an extended investigation

Step 6 ensure that the measures decided on are taken

Step 7 follow up.

It is important that the responsible manager takes the working environment into consideration during the complete process and, where necessary, takes measures to ensure that a positive working environment is maintained.

5.9 Extended investigation

5.9.1 Assessment of the need for an extended investigation

The person responsible for the management as specified in Section 5.4 shall, after an initial investigation, assess whether the case is of such a nature that an extended investigation should be carried out. A consultation about the need for an extended investigation should be held with the chief legal adviser if the case concerns suspected harassment or sexual harassment, or with the director of human resources if the case concerns suspected victimisation. A consultation is to be held if the person who experiences that they are a victim points out the need for an extended investigation.

An extended investigation should be carried out in, for example, cases in which the incident involves serious violation or the exploitation of a relationship of dependence, cases in which the alleged perpetrator is a co-worker with a management role, cases in which the events cannot be assessed without prejudice, and cases in which it has been assessed that the case is unsuitable for management within the local operational unit, for any reason.

If it is assessed that the case requires an extended investigation, it is to be referred to the chief legal adviser, if the suspicion concerns harassment or sexual harassment, and to the director of human resources, if the suspicion concerns victimisation. The person to whom the case is referred is then to determine, acting as representative of the vice-chancellor, how the case is to be subsequently managed. The chief legal adviser or the director of human resources can on their own initiative take up the question of referral, and may, acting on behalf of the vice-chancellor, take over the investigation of a case. They may also return a case to the person who has been designated responsible for its management as specified in Section 5.4, if this is considered to be suitable.

5.9.2 Extended investigation of harassment or sexual harassment

The chief legal adviser, acting on behalf of the vice-chancellor, is responsible that an extended investigation is carried out if the suspicion concerns harassment or sexual harassment. Collaboration with the Negotiation Office is important in cases that concern co-workers for whom measures associated with employment legislation may be necessary. Such collaboration is important also to allow the Negotiation Office to offer suitable support to the responsible manager and the HR partner of the operational unit during the investigation.

Communication with the person with responsibility for education in the particular programme or course is important in cases that concern students, such that it is possible to provide appropriate support to the student during the investigation.

5.9.3 Extended investigation of victimisation

The director of human resources is, on behalf of the vice-chancellor, responsible that an extended investigation into victimisation is carried out. The extended investigation of victimisation is to be carried out by the Negotiation Office. This does not remove the responsibility for the working environment at the operational unit involved from the immediate manager, and it does not preclude that major parts of the extended investigation can be carried out in cooperation with the operational unit involved.

The Negotiation Office can also instruct the operational unit to use the services of the occupational healthcare provider or another external investigator to investigate the reasons of the victimisation. Such instructions are to be given in particularly complicated cases in which it is appropriate that an independent party carry out the investigation. In such cases, the cost of the investigation is to be borne by the operational unit involved.

The Negotiation Office is also responsible for assessing whether measures associated with employment legislation are necessary, and for carrying out such measures as specified by applicable procedures followed by the university. It is expected that the operational unit participate in the work to the extent necessary to ensure that the investigation can be carried out in an efficient and appropriate manner.

5.9.4 Information to affected operational units

If the case concerns **co-workers**, the person who is responsible for the extended investigation is to provide information about the subsequent process to the person who is responsible for case management according to Section 5.4. This is to make it possible for the immediate manager to take responsibility for the working environment and any measures that may be necessary, and support co-workers affected by the investigation. The Negotiation Office at the Human Resources Division can provide advice and support to the responsible manager during the investigation.

If the case concerns **students**, the person who is responsible for the extended investigation is to provide information about the subsequent process to the person who is responsible for case management according to Section 5.4. This is to make it possible for, for example, the person with responsibility for the education to take responsibility for the working environment and any measures that may be necessary, and support students affected by the investigation. Student Health and the student unions can provide advice and support to those affected by the investigation. The Negotiation Office can also provide advice and support in cases in which co-workers are affected.

5.10 Measures decided

When an investigation or extended investigation is complete, a decision is to be taken of how the incident is to be assessed:

1. that what has taken place has been assessed as not constituting any form of harassment or victimisation
2. that what has taken place has been assessed as some form of harassment or victimisation. If the incident is assessed as constituting some form of harassment, it is to be specified in the decision which person or persons are to be held responsible, and whether this person or persons has or have acted in a management role.
3. that conflicting information makes it impossible to assess whether what has taken place constitutes some form of harassment or victimisation.

The decision is also to make it clear whether one or more of the following alternatives are relevant in the subsequent case management:

1. a decision not to take any further measures
2. a decision to file a police report. If a police report is filed, it must be filed in writing.
3. a decision to pass the case to the vice-chancellor for a decision of whether to refer it to the Staff Disciplinary Board (PAN) or the Government Disciplinary Board for Higher Officials (SAN) to determine whether measures according to employment legislation are necessary, or whether – in the case of employees – to file a report for possible prosecution
4. a decision to pass the case to the vice-chancellor for a decision – in the case of students – of whether to refer it to the Disciplinary Board to determine whether disciplinary measures as specified by Chapter 10 of the Higher Education Ordinance (1993:100) are necessary
5. a decision of whether to commission the immediate manager to assess whether any other measures according to employment legislation other than such measures as determined by PAN or SAN are necessary. Such measures may be, for example, the conduct of a clarifying consultation.
6. a decision of any other measures, such as correcting deficiencies in the organisational and social working environment.

5.11 Measures after the decision

When a decision has been made, the person responsible for the case management as specified in Section 5.4 is to ensure that any designated measures are taken, and ensure that similar situations do not arise in the future.

5.12 Co-ordination of measures

In situations in which a case contains several aspects, such as suspected harassment, threats of violence, suspicion of crime, or suspicion of misconduct, the case management is to be coordinated with other stakeholders at LiU.