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Guidelines for investigations of discrimination, harassment and victimisation at Luleå University of Technology.

1 Introduction

Luleå University of Technology strives for a stimulating work environment, where all members of staff and students feel safe and comfortable. The University condemns all forms of discrimination, harassment and victimisation. Everyone has a responsibility to protect a good work environment and to meet each other respectfully. However, it cannot be ruled out that discrimination, harassment and victimisation take place after all. The management of all levels at the University shall have sufficient knowledge to work preventively in this area.

If the University becomes aware that someone, student or member of staff, considers that he or she has been subjected to such discrimination or harassment, the University is obliged to investigate the circumstances and to take appropriate measures to prevent future harassment.¹ According to the Discrimination Act, the University is obligated to launch an own-initiative investigation, even if no formal report has been submitted. Where appropriate, the University is obliged to take reasonable measures to prevent harassment and victimisation in the future.²

2 The purpose of the guidelines

The purpose of the guidelines is to lay down a clear and legally certain procedure for investigating and addressing discrimination and other victimisation against students and members of staff. Those who feel subjected to discrimination and other victimisation shall immediately receive appropriate support.

¹ The Discrimination Act, chapter 1, section 1, and chapter 2, sections 3 and 7 (Kap. 1 § Diskrimineringslagen (2014:958) samt 2 kap. 3 och 7 §§ samma lag.)

² Provisions on organisational and social work environment (Föreskrifter om organisatorisk och social arbetsmiljö, AFS 2015:4)

3 Different forms of discrimination

The Discrimination Act defines different forms of discrimination: direct discrimination, indirect discrimination, harassment, sexual harassment, inadequate accessibility and instructions to discriminate.

All forms of victimisation and harassment at the University shall be counter-acted.

3.1 Direct discrimination

Direct discrimination means that someone is disadvantaged by being treated less favourably than someone else is treated, has been treated or would have been treated in a comparable situation. There shall be a connection between the disadvantage and one of the discrimination criteria.

To disadvantage someone is an action or an omission that puts someone in a worse situation or in a situation where a treatment can lead to injury or disadvantage of that person. Everything associated with actual loss, discomfort or similar can be deemed a disadvantage. Trivial differences in treatment do not constitute a disadvantage.

3.2 Indirect discrimination

Indirect discrimination means that someone is disadvantaged by the application of a provision, a criterion or a procedure that appears neutral but may put people at a particular disadvantage, unless the provision, criterion or procedure has a legitimate purpose and the means that are used are appropriate and necessary to achieve that purpose. There shall be a connection between the disadvantage and one of the discrimination criteria, in order to be assessed as indirect discrimination. The disadvantage may be either intentional or unintentional.

3.3 Harassment

Harassment includes a physical, verbal or non-verbal conduct that violates a person's dignity and that is connected to one of the discrimination criteria. It also includes harassment on the Internet and social media. The conduct or the treatment shall lead to injury or discomfort and thereby violate the dignity of the individual. The conduct or the behaviour shall be unwanted. The person harassed should make clear to the person harassing that the behaviour is perceived as offensive and unwanted.

3.4 Sexual harassment

Sexual harassment includes conducts of a sexual nature that violates a person's dignity.

3.5 Inadequate accessibility

Inadequate accessibility means that a person with disability is disadvantaged through the University's failure to take adequate measures to enable the person to come into a situation comparable with that of persons without this disability. Which measures are reasonable is decided by carrying out a comprehensive assessment in each case. Consideration is given to duration, scope and financial and practical conditions.

3.6 Instructions to discriminate

Instructions to discriminate include orders or instructions to discriminate that are given to someone who is in a subordinate or dependent position relative to the person who gives the orders or instructions.

4 Victimisation

Victimisation is defined as actions directed against one or more students or members of staff in an offensive manner, which could lead to ill health or their being placed outside the community of the study- or workplace³.

To offend a person means to degradingly treat that person in words and/or actions. Differential treatment occurs when someone is treated differently than the others in an incomprehensible and unfair manner. It includes behaviours, conduct and actions that the individual finds offensive. It also includes harassment on the Internet and in social media.

Workplace bullying is a kind of victimisation. Bullying at the study- or workplace occurs when one or more individuals are subjected to harassment, offence or social exclusion or marginalisation on repeated occasions and for an extended period of time by one or more persons and where the subjected individual is at a disadvantage.

5 Reports

The Head of Department is responsible for the students knowing to whom they should turn to in case of perceived discrimination, harassment or victimisation. If members of staff become aware that students experience discrimination, harassment or victimisation, they shall inform the Head of Department so that necessary measures can be taken.

³ Provisions on organisational and social work environment (Föreskrifter om organisatorisk och social arbetsmiljö, AFS 2015:4)

Members of staff who experience discrimination, harassment or victimisation by another member of staff, a superior or a student shall first turn to their superior, the relevant Head of Department or the Director of Professional Services.

The University is obliged to take necessary measures in order to protect the person reporting the matter and the legitimate interests of the person accused of discrimination. The received report is submitted to the University lawyers, who shall assess as soon as possible whether the report regards discrimination, harassment or victimisation and assess whether a formal investigation should be launched. The University may refrain from further investigation only in cases where it is clear that discrimination, harassment or victimisation have not taken place.

The report shall be in written or oral form. The oral report shall be set down in writing and signed by the person reporting the matter. The documentation shall include a description of the event in addition to the name of the person reporting the matter and of the person accused of discrimination.

6 Investigation of discrimination, harassment and victimisation

6.1 General

The University lawyer together with the appointed official from HR or the Student Services shall manage the investigation of a discrimination or a harassment matter. The investigation shall be carried out promptly and with legal certainty. The investigation and measures arising from victimisation shall be carried out in close connection to the event by the Head of Department or the person appointed by the Head of Department (regarding students) or by the immediate superior.

6.2 Own-initiative investigation obligation

The University is obligated to launch an own-initiative investigation about discrimination or harassment, even if no formal report has been submitted. In such a matter, the University lawyer shall make a decision, in writing.

6.3 Investigation official

The appointed official is responsible for informing, supporting and helping the person reporting the matter and the person accused of discrimination during the process.

6.4 Help and support to students and members of staff

The University shall ensure that students having been subjected to discrimination, harassment or victimisation receive help and support from the Student Care, while members of staff shall receive help and support from the occupational health services.

The person accused of discrimination and the person reporting the matter have the possibility to receive support from, for example, a trade-union representative, a colleague or other supportive persons during the investigation process. The role of the supportive is to support and to be available if needed.

6.5 Communication obligation

The parties concerned shall immediately be informed if the state of things changes. All important circumstances that emerge during the investigation shall be communicated with the parties concerned, who will then have the possibility to submit their written comments. This means that the investigators' reports shall be communicated with the parties concerned.

6.6 Documentation and confidentiality

Documents, received by or drawn up at the University, become official documents that to a large extent will be publicly accessible. Certain information may fall within the frames of secrecy regulations and thereby become confidential.

6.7 The results of the investigation

The results of the investigation shall be put together in a report including a description of the incident, received documents, experiences from carrying out the investigation, considerations and conclusions. The report shall be addressed to the University lawyer for further assessment and decisions, if any.

7 Disciplinary measures

7.1 Students

If a student has subjected another student or member of staff to discrimination, harassment or victimisation, the University Disciplinary Board may take disciplinary measures.⁴

7.2 Members of staff

If a member of staff has subjected another member of staff or a student to discrimination, harassment or victimisation, the University Staff Disciplinary Board may take disciplinary measures. In certain cases, the Government Disciplinary Board for Higher Officials may review the discrimination or harassment matter.

⁴ The Higher Education Ordinance, Chapter 10, section 1 (10 kap 1 § Högskoleförordningen, 1993:100)

8 Follow-up

A proactive and preventive work against discrimination, victimisation and harassment is an important part of the University's work environment management. All matters regarding discrimination, harassment and victimisation shall be followed up and processed within the frame of the systematic work environment management.