Guidelines and procedures for managing discrimination and victimisation at Örebro University

Approved by: Vice-Chancellor
Date: 2010-11-30
1 Introduction

Örebro University shall offer every student and employee a good work and study environment, where no one shall be discriminated against or be subjected to victimisation.

The aim of this document is to clarify the university’s obligations, and the students’ and employees’ rights and obligations regarding discrimination and victimisation. The document also establishes how cases of discrimination and victimisation shall be handled by Örebro University.

The laws and regulations that lay down Örebro University’s obligations and commitments in this area are primarily the Discrimination Act (SFS 2008:567), the Work Environment Act (SFS 1977:1160), the Statute Book of the Swedish National Board of Occupational Safety and Health (Ordinance AFS 1993:17), and the Parental Leave Act (SFS 1995:584).

2 Definitions

2.1 What is discrimination?
Discrimination is an umbrella term for several forms of discrimination. Discrimination is defined in the Discrimination Act, Chapter 1, Section 4, as follows:

Direct discrimination: Someone is disadvantaged by being treated less favourably than someone else is being treated, has been treated or would have been treated in a comparable situation, if this disadvantaging is associated with one of the seven grounds of discrimination.

Indirect discrimination: Someone is disadvantaged by the application of a provision, a criterion or a procedure that appears neutral but that may put people according to the seven grounds of discrimination at a particular disadvantage, unless the provision, criterion or procedure has a legitimate purpose, and the means that are used are appropriate and necessary in order to achieve the aim.
**Harassment:** Conduct that violates a person’s dignity and is associated with one of the seven grounds of discrimination. It is always the person’s subjective experience that decides what is offensive. Harassment can be the use of humiliating or degrading generalisations, offensive remarks or exclusion.

**Sexual harassment:** Conduct of a sexual nature that violates someone’s dignity.

**Instructions to discriminate:** Orders or instructions to discriminate against someone are given to someone who is in a subordinate or dependent position in relation to the person who gives the orders and instructions, or someone who has committed himself or herself to performing an assignment.

The Discrimination Act, and these guidelines, are applicable if the alleged discrimination has been committed in working life (also during business trips and office parties) or within educational activities, and is associated with one of the grounds of discrimination sex, transgender identity or expression, ethnicity, religion or other belief, disability, sexual orientation or age. According to the Parental Leave Act, Sections 16 and 17, the guidelines are also applicable if a person is disfavoured in connection with parental leave.

### 2.2 What is victimisation?

Victimisation is defined as “recurrent reprehensible or distinctly negative actions which are directed against individual employees in an offensive manner” by the employer, employer representative or other employee(s). Also students are covered by the Work Environment Act and should therefore be regarded as employees under this act.

Examples of victimisation are:

- Slandering or maligning someone or his or her family.

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1 Statute Book of the Swedish National Board of Occupational Safety and Health (Ordinance AFS 1993:17), Section 1.
2 Work Environment Act, Chapter 1, Section 3, Item 1.
• Deliberately withholding work-related or study-related information.
• Deliberately sabotaging or impeding the performance of work or studies.
• Ostracism, boycott or disregard.
• Persecution, threats, or degradation.
• Deliberate insults, hypercritical and negative response or attitudes.
• Supervision of someone, without his or her knowledge and with harmful intent.
• “Administrative penal sanctions” without any objective cause, for example withdrawal of work duties or an office, transfers, overtime requirements, obstruction in the processing of applications for training, studies and leave of absence.

Normally, occasional differences in opinion, conflicts and problems in working relations, where no one in actions or attitudes deliberately hurts or offends someone else, are not considered to be victimisation. Victimisation does not occur until personal conflicts lose their character of reciprocity.

3 What should the university do in cases of discrimination and victimisation?

Örebro University does not tolerate any victimisation or forms of discrimination, regardless of the discrimination grounds. All forms of such behaviour shall therefore be investigated and attended to, when it is brought to the university’s attention. Örebro University has certain obligations to work goal-oriented to actively promote equal rights and opportunities, and to take measures to prevent and hinder any employees or students from being subjected to harassment are limited to some of the seven grounds of discrimination in the Act (Employer: sex, ethnicity and religion or other belief; Education provider: sex, ethnicity, religion or other belief, sexual orientation or disability, see Discrimination Act, Chapter 3, Sections 3–7).
formal obligations to fulfil in the event of discrimination and victimisation.

Regarding discrimination, Örebro University has obligations both as an employer and as an education provider. The university shall actively promote equal rights and opportunities, and also prevent and hinder any employees or students from being subjected to discrimination. In cases of harassment or sexual harassment, the university is obliged to investigate and, if necessary, take measures.

In cases of victimisation, the university has obligations as an employer, which also includes the students at the university. With planning and organisation, the university shall prevent victimisation. There should also be procedures in place for detecting and correcting unsatisfactory work conditions, problems of work organisation or deficiencies of cooperation that can provide a basis for victimisation. The university is obliged to investigate if there are any signs of victimisation.

4 What should you do in cases of discrimination or victimisation?

3, 6, 14 and 15). The university’s obligations to investigate and take measures includes also, according to the Act, only harassment and sexual harassment (see Discrimination Act, Chapter 2, Sections 3 and 7). Örebro University’s ambition is thus an expanded responsibility in this area.

An education provider is a natural or legal person conducting activities referred to in the Education Act (1985:1100) or other educational activities. Employees and contractors engaged in the activities shall be equated with the education provider when they are acting within the context of their employment or contract, see the Discrimination Act (SFS 2008:567), Chapter 2, Section 5.

5 Örebro University has an obligation to investigate if it is brought to the university’s attention that a student is harassing another student, an employee is harassing a student or an employee is harassing another employee. Örebro University is not obliged to investigate if the employee is harassed/sexually harassed by a student. If you, as an employee, feel you have been subjected to harassment by a student, you should inform your employer or your local safety representative, as it is regarded as a work environment issue and therefore is not covered by the Discrimination Act.
Guidelines and procedures for managing discrimination and victimisation at Örebro University

Vice- Chancellor’s decision

Approved: 2010-11-30 Reg. no.: 10-160/2010

All reports of discrimination and victimisation shall be submitted to the Vice-Chancellor and sent to the Records Office.

If you, as an employee or student, feel you have been subjected to discrimination or victimisation you can report this to the Vice-Chancellor or (in cases of discrimination) directly to the Equality Ombudsman (Diskrimineringsombudsmannen) (www.do.se).

No student or employee should disregard obvious misconduct, but should instead actively take part in immediately solving the situation. No student or employee should take part in concealing discrimination or victimisation. Since the university aims at preserving a good study and work environment for all students and employees, you should as a student or employee always report the misconduct, even if you are not the victim yourself.

All employees at Örebro University that become aware of harassment and sexual harassment have a formal obligation to report this.

When an investigation starts, the person allegedly subjected to the discrimination is contacted in order to confirm or reject that the discrimination has taken place.

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6 Within the scope of the Discrimination Act an employee also refers to a person who a) is enquiring about or applying for work, b) is applying for or carrying out a traineeship, c) is available to perform work or is performing work as temporary or borrowed labour, see the Discrimination Act (SFS 2008:567), Chapter 2, Section 1.

7 If the misconduct has been reported by another person than the one who was allegedly subjected to the discrimination, the latter will be contacted in order to confirm or reject that the discrimination took place. If discrimination cannot be confirmed, the university as an employer has no obligation to investigate further. However, an education provider is obliged to investigate and take measures whether the student has confirmed it or not. (Håkan Gabinus Göransson, et al 2009, Diskrimineringslagen (The Discrimination Act), pp. 80-81, 108-109.) In practice, of course, it is difficult to conduct an investigation without the confirmation from the person allegedly discriminated against, regardless of whether it is a student or an employee.
Subjecting a person to reprisals because the person has reported discrimination or victimisation or takes part in the investigation is not allowed⁸.

5 After reporting – what happens next?

The report is registered and filed.

The University Director is responsible for the initial handling of the matter and to see to it that the processing and investigation is done in accordance with the current procedures.

The nature of the matter is assessed by the University Director in consultation with the university’s Legal Officer and the Equal Treatment Officer.

*Discrimination* is investigated by the central administration according to the special procedures for discrimination cases as set out in this document. The University Director is responsible for processing the case and will appoint an administrator in charge of handling the matter.

*Victimisation* is investigated at the school/department/office/library according to the special procedures set out in this document. If necessary, the university’s legal officers and equal treatment officers can act as consultants. The manager in question is responsible for the processing of the case and appoints an administrator in charge of handling the matter. If the school/department/office/library on the basis of legally admissible grounds cannot conduct the investigation (for example if the manager has been reported for victimisation), the case will be investigated by Human Resources. Then, the human resources manager will be responsible for the processing of the case and appoints an administrator in charge of handling the matter.

The investigation should start immediately and be dealt with promptly, objectively and without jeopardising the legal rights of the

⁸ The Discrimination Act, Chapter 2, Sections 18 and 19.
individuals involved. The investigation shall be conducted with respect to all parties concerned.

The purpose of an investigation is to clarify the circumstances surrounding the reported discrimination or harassment case and take measures to, where appropriate, immediately cease it. The duration of an investigation depends on the nature of the case and its scope.

An investigation of a discrimination case at Örebro University is a formal matter, which means that all documents in the case are registered. The documents at the Records Office are public documents, and therefore available for those wishing to read them. If someone asks to see the documents, an assessment whether the document is subject to secrecy shall always be made in accordance with the Public Access to Information and Secrecy Act (SFS 2009:400). This means that documents can be marked as secret. Draft documents that have not been registered do not need to be disclosed.

6 Processing discrimination issues

Both parties involved in the case (the person who considers that he or she has been subjected to discrimination and the person who has been accused of discriminating) are informed by letter that an investigation has been initiated and about the registration number of the case. This document, Guidelines and procedures for managing discrimination and victimisation at Örebro University (Reg. no. CF 10-160/2010) shall be enclosed with the letter, which should also point out that there are support persons available in accordance with the list below. The person who, according to the report, is accused of discriminating is given ten working days after receiving this information to comment on the report/account in writing.

The following functions shall be informed about the case: the university’s legal officer, the equal treatment officer, the head of the department/school/office/library where the events allegedly took place, the human resources manager (if the case concerns an employee), and the student welfare officer at Örebro Student Union (if the case concerns a student).
The person who, according to the report, has been discriminated against is given ten working days to comment on, in writing, the account from the person accused of discriminating.

If required, complementary information will be obtained in writing or orally from the parties and witnesses in question. Also, the university’s legal officer and the equal treatment officer may be consulted.

The appointed administrator writes a draft decision. The Vice-Chancellor takes a decision after a presentation from the administrator. The following decisions can be taken:

a) The matter is dismissed without further action because it cannot be assumed or proven that discrimination has taken place.

b) The matter is dismissed without further action because the discrimination, thanks to the investigation, can be assumed to have ceased and will not be repeated.

c) A plan of action for the individual case is to be drawn up and that measures are to be taken immediately by the manager in question so that the discrimination or harassment thereby can be assumed to cease immediately and not be repeated.

d) The matter is referred to the Disciplinary Committee, Staff Disciplinary Committee or the Government Disciplinary Board for a hearing.

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9 The Disciplinary Committee may decide on disciplinary measures (Higher Education Ordinance SFS 1993:100, Chapter 1, Sections 1-10). The student may be cautioned or suspended up to six months. A student that has been suspended is prohibited from participating in instruction, tests or other activities within the framework of the programme at the university. The suspension means that the student loses his or her right to receive student aid for university studies during the period of suspension. The Staff Disciplinary Committee may decide on issuing a caution, deduction from wages or termination of employment in the case of an employee (Government Agencies and Institutes Ordinance SFS 2007:515, Section 25). The Government Disciplinary Board can decide on issuing a caution or withdrawal of
The University shall, after investigation, make sure that the discrimination has ceased. The University Director is responsible for the follow-up of the case. The aim is to ensure that the misconduct has ceased and that the work environment is acceptable for both the person who reported the discrimination and the person who was reported. The follow-up should be documented in writing and be enclosed with the other registered documents in the case file at the Records Office.

7 Processing victimisation issues

Immediate measures in connection with the investigation
The manager in question shall invite the victim to a confidential interview. Please note that the manager in charge is the human resources manager in those cases where the head of school /department /office/library on the basis of legally admissible grounds cannot conduct the investigation (for example if he or she is the one reported for victimisation, see page 7).

After consulting the victim, the manager in question shall contact the person(s) that are accused of victimising. The person being accused of victimising shall be informed about the situation and be offered support for immediate change of the situation.

The manager in question is responsible for making sure that the victimisation ceases immediately by firmly rejecting improper actions, attitudes, and behaviour.

Investigation

Both parties involved in the case (the person who considers that he or she has been subjected to discrimination and the person who has been accused of discriminating) are informed by letter that an investigation has been initiated and about the registration number of the case. This document, *Guidelines and procedures for managing discrimination and victimisation at Örebro University* (Reg. no. CF 10-160/2010) shall be enclosed with the letter, which should also point out that there are support persons available in accordance with the list below.

The investigation shall:

1) Elucidate what has happened and if the event can be regarded as victimisation in a legal sense.

2) Elucidate if the causes for what has happened can be found in the organisation of the work/studies, and what measures can be taken to prevent similar events in the future\(^\text{10}\).

The appointed administrator makes a draft decision. The manager in question takes a decision after a presentation from the administrator. Decisions should be forwarded to the university director, the university’s legal officer and the equal treatment officer for their information. The following decision(s) can be taken:

a) The matter is dismissed without further action because it cannot be assumed or proven that discrimination has taken place.

b) The matter is dismissed without further action because the discrimination, thanks to the investigation, can be assumed to have ceased and will not be repeated.

c) Changes will be made in the work or study conditions for any one of those involved.

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\(^{10}\) The background to victimisation can, for example, be shortcomings in the organisation of work, the internal information system or the direction of work, excessive or insufficient workload or level of demands, shortcomings of the employer’s personnel policy or in the employer’s attitude or response to the employees.
d) The matter is referred to the Disciplinary Committee, Staff Disciplinary Committee or the Government Disciplinary Board for a hearing\textsuperscript{11}.

e) An action plan is to be drawn up in accordance with item 2 above and the manager in question is to take immediate action to prevent victimisation in the future.

After the investigation, the university shall make sure that the victimisation has ceased. The University Director is responsible for the follow-up of the case. The aim is to ensure that the victimisation has ceased and that the work environment is acceptable for all parties involved. The follow-up shall be documented in writing and be enclosed with the other registered documents in the case file at the Records Office.

\textsuperscript{11} See footnote 9.
8 Support functions for students and employees

University Chaplain
E-mail: studentprast@oru.se
Telephone: +46 (0)19-30 11 69, +46 (0)702-51 71 30
Office next to the Quiet Room, Forum Building, second floor

University Deacon
E-mail: studentdiakon@oru.se
Telephone: +46 (0)19-303560, +46 (0)70-2161880
Room: P2104

Campus Health Centre/Occupational Health Service (nurse, psychologist, behavioural therapist, midwife, physiotherapist)
E-mail: campushalsan@previa.se
Telephone: +46 (0)19-303197
Drop-in (for making appointments) 9.30 – 11.00 every weekday except Tuesdays, Rooms: P1206-1217

Örebro Student Union
Student Representative
E-mail: studentombud@karen.oru.se
Telephone: +46 (0)19 – 676 23 54, +46 (0)709 – 39 99 21

As an employee, you can also contact:

Local health and safety representatives or the principal health and safety representative