Administrative procedure

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Administrative procedure in the event of victimisation, bullying, discrimination, harassment, sexual harassment or retaliation.

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##### Administrator: Madeleine Juliusson

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##### Summary: As an employer and an education provider, Mid Sweden University has a duty to prevent victimisation, bullying, discrimination, harassment, sexual harassment and retaliation in the work place and educational environment, as stipulated in the Swedish Work Environment Act (1977:1160), the Discrimination Act (2008:567), and the Swedish Work Environment Authority’s Regulations on Systematic Work Environment Management (AFS 2001:1) and the Organisational and Social Working Environment (AFS 2015:4). The purpose of this administrative procedure is to clarify how Mid Sweden University, as an employer and education provider, will deal with cases of victimisation, bullying, discrimination, harassment, sexual harassment and retaliation.

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# Administrative procedure in the event of victimisation, bullying, discrimination, harassment, sexual harassment or retaliation.

1. Mid Sweden University’s position

Mid Sweden University must be a higher education institution and work place that is free from victimisation, bullying, discrimination, harassment, sexual harassment and retaliation. The equality of all people is a self-evident and fundamental prerequisite for all activities at Mid Sweden University. Our organisation is based on a foundation of participation and conversation. Employees and students alike are to be treated and received with respect and dignity, which means that everybody has the right to be taken seriously, be shown consideration and given attention. Differences must also be respected in order to foster the individual’s opportunity to work or study, and to develop Mid Sweden University’s activities.

If an employee or student believes that they have been the subject of victimisation, bullying, discrimination, harassment or sexual harassment while working or studying, Mid Sweden University is obligated to investigate the circumstances, assess the risks and when applicable, implement appropriate measures within the working environment and follow up to ensure that the measures taken have had the desired effect.

The aim of this administrative procedure is to clarify:

1. who to turn to if you believe you have been subjected to such behaviours
2. what Mid Sweden University must do once the university has been made aware that victimisation, bullying, discrimination, harassment, sexual harassment or retaliation may be occurring in the work place/higher education institution
3. who is responsible for investigating the events or claims
4. Preventive measures

Preventive efforts must focus on ensuring that victimisation, bullying, discrimination, harassment, sexual harassment or retaliation do not arise within a place of work. This also involves acting if such behaviour does occur. Preventive efforts are part of the systematic management of the working environment and pursuant to the Swedish Work Environment Authority’s regulations (AFS 2001:1), systematic management of the working environment is expected to be ingrained into everyday operations. Systematic prevention and promotion must also be grounded in the Discrimination Act (2008:567) through proactive measures.

Work environment risks that may give rise to victimisation can include inadequacies in the organisation and work configuration such as unclear roles, heavy workload or a low level of autonomy. Shortcomings in the organisational climate and culture, such as a lack of trust and support, may also be risk factors. Risks that can lead to an escalation of problems may include poor conflict management and inadequate change processes. Escalating conflicts often give rise to a feeling of victimisation sooner or later, for both parties, regardless of the organisational and social background context.

Various measures can be taken at different levels to prevent problems within an organisation. At an organisational level, Mid Sweden University works pro-actively with salary criteria, management and leadership development, competence development, participation in the organisation’s decisions and employee surveys. Governance documents such as policies, administrative procedures and guidelines are also in place. At a group level, the focus is on systematic management of the working environment, fostering support and collaboration, and creating awareness about behaviours and conflicts. At an individual level, staff in managerial or head-of-department positions focus on participation, competence development and awareness of behaviours and conflicts.

1. Who can I turn to if I have been subjected to these behaviours?
	1. For employees

If you are an employee who believes you are being subjected to victimisation, bullying, discrimination, harassment, sexual harassment or retaliation, or if you witness an employee, head of department/manager or student being subjected to such behaviour, you should initially contact the head of department/manager for the department/unit concerned. If this is not possible, you should contact the next manager in line, union representative or safety representative that you deem appropriate. It can be more difficult to address a situation if a long time has passed since the incident occurred. For this reason, it is important to make contact as soon as possible. Other functions can also provide advice, support and information such as Occupational health services or the Equality Ombudsman (DO).

* 1. For students

If you are a student who feels you are being subjected to victimisation, bullying, discrimination, harassment, sexual harassment or retaliation, or if you witness another student or employee being subjected to such behaviour, you should contact the head of department/manager for the department/unit concerned. It can be more difficult to address a situation if a long time has passed since the event occurred. For this reason, it is important to make contact as soon as possible. You can also contact other functions for advice, support and information such as the deputy head of department, the head of administration, teachers, the student safety representative, Student health services or the Equality Ombudsman (DO).

1. Reporting and registration

In accordance with the Public Access to Information and Secrecy Act (2009:400), all documents received by Mid Sweden University or that have been drawn up within Mid Sweden University are public and official, and any individual can request access to them. Each time a request for a document is received a confidentiality assessment can be made. There are nevertheless limited possibilities to classify information as secret, so matters may be retried in a court of law.

A report should include the following:

1. an account of what happened
2. when it took place
3. name of the person subjected to inappropriate behaviour and their place of work or study
4. name of the person accused of inappropriate behaviour and their place of work or study
5. names of any witnesses

All documentation related to victimisation, bullying, discrimination, harassment, or sexual harassment is to be registered once the case has been closed.

* 1. Anonymous reporting

In order to investigate the facts of the matter in a case, the parties concerned need to be actively involved. An investigation can therefore not be carried out if the parties concerned want to remain anonymous. If a person nevertheless wants to report victimisation, discrimination, harassment, or sexual harassment without being involved themselves, the matter can be dealt with at an overall level within the work group or student group where the problem is said to have occurred.

* 1. Police report

In some cases the conduct may be so serious that it can be considered criminal, according to the Penal Code (1962:700), in which case it must be reported to the police. It is the victim who has to report the matter to the police. Mid Sweden University can offer support to the victim via the responsible head of department/manager, for example through Occupational health and Student health services. The victim can also contact a safety representative or a union representative.

* 1. Reporting to the Equality Ombudsman (DO)

Anybody who feels they have been subjected to discrimination, harassment, sexual harassment or retaliation, can file a report with the Equality Ombudsman. If Mid Sweden University as an employer or education provider does not have adequate processes in place to prevent discrimination (via proactive measures), a report can be made to the Equality Ombudsman (DO).

1. Examination and investigation

The vice-chancellor has the overarching responsibility for the working environment at Mid Sweden University. The vice-chancellor allocates the responsibility for work environment tasks in writing to each subordinate manager with staff responsibilities. This means that the immediate head of department/manager is responsible for ensuring that cases of victimisation, bullying, discrimination, harassment, sexual harassment and retaliation are dealt with correctly.

If a head of department/manager is made aware that, in the context of their work or studies, an employee or student may have been subjected to victimisation, discrimination, harassment, sexual harassment or retaliation, the head of department/manager has a duty to immediately act to inhibit any escalation of health risks. The head of department/manager must ensure that the circumstances are investigated and documented, and when applicable, take and follow up the measures required to prevent the same thing occurring again (AFS 2015:4, AFS 2001:1, Discrimination Act 2008:567).

* 1. Initial examination and assessment of cases of employee victimisation

When a head of department/manager is made aware that, in the context of their work, an employee may have been subjected to victimisation (where the victimisation entails a risk of ill health or exclusion), an initial examination needs to be done to find out what has happened. This is to provide support for the first assessment. The head of department/manager has an initial conversation with the victim/s, then thoroughly documents the conversation and provides information about the onward process to the parties concerned.

It is important that the person dealing with the case, i.e. who examines and assesses a case of victimisation, is independent and neutral in relation to the parties involved. Otherwise there is a substantial risk that the problem will escalate. For this reason, a lawyer and/or the HR department needs to be part of the process to ensure independence before the head of department/manager opens the case.

If the assessment from this initial stage is that the case does not involve victimisation, discrimination, harassment or sexual harassment, the parties concerned need to be informed in an objective and respectful manner.

* + 1. Pre-investigation of the case

If the first assessment indicates a further need to examine the situation that occurred, a pre-investigation is the appropriate next step. A pre-investigation involves further, deeper conversations with the parties concerned. The pre-investigation should be carried out by an external, independent party at Mid Sweden University, preferably Occupational health services. The purpose of the pre-investigation is to examine whether there are factual reasons for carrying out a systematic investigation.

If the assessment from this stage is that the case does not involve victimisation, discrimination, harassment or sexual harassment, the parties concerned need to be informed verbally, in an objective and respectful manner.

* + 1. Systematic investigation of suspected victimisation

Before carrying out an investigation, a risk assessment must be performed to ensure that the step will not give rise to a deterioration in the working environment and ill health for those involved and concerned. The risk assessment must adhere to the applicable risk assessment routines in the IA system. Investigations must be carried out respectfully, objectively and systematically with everybody concerned being given the chance to express their opinion. The accused must be given a possibility to respond to the accusations made. It is therefore not possible to receive anonymous information from any parties. Investigations are performed by external parties to Mid Sweden University, primarily the university’s contracted occupational health service provider.

The objective of incident investigations when somebody believes that they have been subjected to victimisation is to gather sufficient information and knowledge about the situation.

* 1. Investigations into victimisation of students

When a head of department/manager is made aware that, in the context of their studies, a student may have been subjected to victimisation (where the victimisation entails a risk of ill health or exclusion), an investigation of the circumstances needs to be carried out. AFS 2015:4 does not apply to students, but at Mid Sweden University the relevant sections are to be used as a basis for managing cases of victimisation of students. The head of department/manager has an initial conversation with the person/s subjected to victimisation, or the parties accused of victimising them. The purpose of the investigation is not primarily to derive whether victimisation has taken place and who is responsible for it. Instead, the objective is to gather supporting documentation to be able to take steps to stop the undesirable behaviour.

In situations when a student reports another student or an employee of the university, the head of department/manager must first contact Mid Sweden University’s lawyers for support in how to handle the case.

* 1. Duty to investigate, pursuant to AFS 2001:1

Investigating, risk assessing, taking action and following up on the working environment must always be done if the head of department/manager is made aware that an employee or student feels that they are being subjected to victimisation or bullying. Even if an employer deems, subsequent to a single conversation, pre-investigation or investigation, that no victimisation has taken place from a work environment perspective (AFS 2015:4), they still have a duty to investigate from the perspective of systematic management of the working environment (AFS 2001:1). This means that the responsible head of department/manager for the unit where there are ill-health issues or a risk thereof is obligated to investigate, risk assess, take action and follow up on the working environment of the unit, which must then be documented and registered.

* 1. Investigations into harassment and sexual harassment

If Mid Sweden University becomes aware that an employee or student feels they are being subjected to harassment or sexual harassment based on the grounds of discrimination stipulated in the Discrimination Act, the university is obligated to investigate the circumstances surrounding the harassment claimed, and when applicable, take the required measures to prevent future harassment (Chap 2, Sect. 3 and 7 of the Discrimination Act (2008:567)). For this obligation to apply, the harassment must have taken place in connection with university activities. Incidents that take place outside of university time are not therefore covered by the obligation to investigate. The head/manager of the department where the perceived harassment took place is responsible for carrying out the investigation and taking reasonable actions. It is important that the person investigating the case is independent and neutral in relation to the parties involved. HR or the university’s lawyers should be contacted for support regarding the performance and content of the investigation.

* 1. Support for all parties concerned

In a situation where somebody has been accused of victimisation, bullying, discrimination, harassment or sexual harassment, it is important that all parties concerned are offered support, both the victim/s and the accused. Mid Sweden University offers employees support through Occupational health services and offers students support through Student health services.

* 1. Information

It may sometimes be considered necessary to provide information to others, beyond those directly involved, to minimise speculation and spreading of rumours. This should be carefully considered though and those involved should be consulted as to who needs to be informed and what information they need.

1. Taking measures

If it has been established that victimisation, bullying, discrimination, harassment, sexual harassment or retaliation is taking place, measures must be taken as soon as possible to stop such misconduct and prevent it being repeated in the future. The work environment measures that must be implemented can vary from case to case.

Victimisation, bullying, discrimination, harassment, sexual harassment or retaliation can be considered as misconduct and investigations may therefore be forwarded to the Staff Disciplinary Board (PAN) or the Government Disciplinary Board for Higher Officials (SAN), and in some cases the Student Disciplinary Board. The Staff Disciplinary Board and the Government Disciplinary Board for Higher Officials may determine that dismissal, notice of termination, salary deduction or a written warning are appropriate. The Student Disciplinary Board may decide to issue a warning or suspension.

1. Follow-up

Once a case has been closed, follow-up should take place as part of the systematic management of the working environment (investigate, risk assess, take action and follow up) to ensure that the measures implemented have had the desired effect, that the undesirable behaviour has ceased and to prevent similar incidents occurring again. If it turns out that the victimisation, bullying, discrimination, harassment or sexual harassment problems persist, the measures have been inadequate. In that case, the head of department/manager needs to carry out a new risk assessment and determine further measures to try to put a stop to the behaviour, which is to be documented and registered.