

## **Policy against discrimination (including sexual harassment) and victimisation**

### **For employees and students at Konstfack**

Decision by	Vice-Chancellor
Administrator	Lisa Gäll
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Period of validity	Until further notice
Summary	The policy describes laws, ordinances, definitions, Konstfack's obligation to investigate as well as the work process for how managers, employees and students are to act in the event of discrimination (including sexual harassment) or victimisation.
Aim	The aim of the policy is to clarify roles and responsibilities, obligations and rights, possible advisory resources as well as consequences and

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# 1. Introduction

Konstfack strongly opposes discrimination (including sexual harassment) and victimisation and does not tolerate incidents of this nature in our operations. All employees and students are entitled to be treated with respect and to work in a climate that promotes work satisfaction, health and opportunities for development and success. All employees and students are responsible for ensuring that discrimination and victimisation do not take place at Konstfack.

Discrimination and victimisation are not only detrimental to the victim, but to the whole operation, and they constitute a serious threat to job satisfaction, health and professional development.

Konstfack works actively to ensure equal conditions regardless of social, economic, geographical or ethnic background and to combat all forms of discrimination, harassment (including sexual), victimisation, suppression techniques and reprisals.

The work applies to both employees and students participating in or applying to the university's activities.

# 2. Roles and Responsibilities

The Vice-Chancellor has the overall responsibility for ensuring that the university adheres to legislation and that there is goal-oriented work to actively promote equal rights and opportunities.

The Vice-Chancellor shall also ensure that managers<sup>1</sup> at Konstfack have the necessary knowledge to handle occurrences of discrimination (including sexual harassment) and victimisation.

## Managers are responsible for

- organising and planning work to, as far as possible, prevent anyone from being subjected to discrimination (including sexual harassment) or victimisation.
- promptly investigating possible discrimination (including sexual harassment) and victimisation and immediately taking the necessary measures to ensure that the behaviour stops.
- ensuring that all employees and students are aware of the university's policy on discrimination (including sexual harassment) and victimisation.

## Everyone is responsible for

- creating and maintaining an open and friendly climate and everyday civility in the workplace.
- being aware of their own actions and words.
- acting on suspicion or witnessing a situation where someone is subjected to discrimination (including sexual harassment) or victimisation. speaking up and/or bringing such incidents to the attention of a manager.
- clearly indicating their disapproval and rejecting unwanted behaviour perceived as discrimination (including sexual harassment) or victimisation.

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<sup>1</sup> The term 'manager' comprises heads of department and others with responsibility for staff.

### 3. Advisory resources

You can turn to the following functions for advice, support and information

Employee	Student	Person responsible for investigation or
<ul style="list-style-type: none"><li>• Immediate supervisor, or a superior</li><li>• HR Department</li><li>• Union representatives</li><li>• Safety representatives</li><li>• Occupational health service</li></ul>	<ul style="list-style-type: none"><li>• Head of relevant department, or a superior</li><li>• The Education and Research Administration Department</li><li>• The Student Health Services</li><li>• Safety representatives</li></ul>	<ul style="list-style-type: none"><li>• Superior</li><li>• HR Department</li><li>• The Education and Research Administration Department</li><li>• Other external party</li></ul>

#### If you are subjected to discrimination or victimisation

- Clearly show that the behaviour is unwanted.  
If you feel uncomfortable or unable for some other reason to show your disapproval, you can seek help and support from the advisory resources (above).
- Make a note of what has happened (words, actions, dates, times, witnesses, etc.)
- Report the incident to a manager.  
If the manager is the cause of the problem, contact a superior.

## 4. Discrimination

The legal point of departure against discrimination is described in the Instrument of Government, which is part of Sweden's constitution. Discrimination is regulated in the Discrimination Act (2008:567).

The Discrimination Act prohibits discrimination within several different areas of society, including working life and education.

Discrimination can be described as a person being disadvantaged or victimised, and the disadvantage or victimisation is related to one of the seven grounds for discrimination. Discrimination can be direct or indirect. Lack of accessibility as well as harassment, sexual harassment and instructions to discriminate are also forms of discrimination. (*See forms of discrimination*)

The Discrimination Act aims to prevent discrimination and otherwise promote equal rights and opportunities regardless of gender, transgender identity or expression, ethnicity, religion or other belief system, functional impairment, sexual orientation or age.

**One condition of discrimination is that the disadvantage or victimisation is related to one of the seven grounds for discrimination.**

1. **Gender:** Refers to a person being a woman or a man, and to those who intend to change or have changed their gender.
2. **Transgender identity or expression:** Refers to a person who does not identify as woman or man, or who expresses another gender through their clothing or otherwise.
3. **Ethnicity:** Refers to national or ethnic origin, skin colour or similar.
4. **Religion or other belief system:** Refers to religious faiths, such as Hinduism, Judaism, Christianity and Islam. Other belief systems comprise beliefs based in or related to a religion, such as Buddhism, atheism and agnosticism.
5. **Functional impairment:** Refers to permanent physical, psychological or intellectual limitations of a person's ability as the result of an injury or illness from birth, or which has appeared or can be expected to appear at a later stage.
6. **Sexual orientation:** Refers to a homosexual, bisexual or heterosexual orientation.
7. **Age:** Refers to a person's age.

There is no form of discrimination in the legal sense outside of these grounds, even if disadvantageous treatment may constitute a violation of other legislation, for example the provisions of the Work Environment Act in regard to bullying.

## **4.1 Prohibition against reprisals**

Reprisals can take many different forms. They are characterised by some form of punishment or vindictiveness.

A person who has reported discrimination or an employer or programme coordinator violating the law (for example, by not working preventively against harassment) shall be safe from punishment, i.e. from being subjected to reprisals. This protection is also extended to persons who have participated in an investigation pursuant to the Discrimination Act or who has rejected or resigned themselves to harassment or sexual harassment.

## **4.2 Forms of discrimination**

### **4.2.1 Direct discrimination**

Discrimination that cannot be considered to have objective grounds, i.e. when a person is disadvantageously treated compared to another person in an equivalent situation.

It may for example be a case of discrimination if a job-seeker with a foreign background is not called to an interview, even though their merits are equivalent to those of a person being interviewed.

### **4.2.2 Indirect discrimination**

When a person is disadvantaged by the implementation of a regulation, a criterion or a process that appears to be neutral but which in practice disadvantages certain individuals. This may include an employer setting a requirement for good knowledge of Swedish when advertising a position where such knowledge is not needed to effectively carry out the tasks.

### **4.2.3 Lack of accessibility**

When a person with a functional impairment is disadvantaged because the organisation has not implemented sufficient accessibility measures to allow that person a situation equivalent to that of people without the same functional impairment, for example, by not offering reasonable equipment to give them the possibility of participating at work. The law states that an assessment must be made on a case-to-case basis, to determine what constitutes reasonable measures.

### **4.2.4 Instructions to discriminate**

Instructions to discriminate against a person given to someone who is in a subordinate position to the person giving the instruction or who has undertaken to fulfil a task for the person giving the order or instruction.

## 4.2.5 Harassment and sexual harassment

Harassment can be summarised as verbal or non-verbal behaviour that is unwanted and which violates another person's integrity. Harassment includes expressing ridicule or making derogatory generalisations.

Sexual harassment refers to behaviour of a sexual nature which violates another person's integrity. Both women and men can be the source and the subject of sexual harassment against both women and men.

Examples of sexual harassment:

- Unwanted physical contact (hugs, brushing up against a person's body, etc.)
- Verbal behaviour of a sexual nature; this can be advances and sexual innuendo, or offensive comments, jokes, compliments or allusions.
- Choice of words or jargon during breaks, parties or elsewhere. (Attitudes and jokes that are not directed towards one or more individuals are not included as a rule).
- Unwanted images (pornographic).

The person subject to the harassment determines what is considered unwanted. The assessment of whether or not harassment or sexual harassment has occurred is not based on which situations would typically violate a person's integrity, as an action or behaviour can be perceived differently by different people.

The law states that the harassing person must realise that their behaviour is offensive in a discriminatory sense for the behaviour to be classified as harassment or sexual harassment. For this reason, it is important to clarify to the accused party that an action or a behaviour is perceived as offensive. If the subjected party feels uncomfortable or unable to voice their disapproval on their own, they should seek help and support (see advisory resources).

In certain situations, the harassment can be so evident that the person responsible for the unwanted actions should have been aware that this behaviour was unwanted, in which case no clarification is required for the behaviour to be classified as harassment or sexual harassment.

## 4.3 Discrimination in working life

If an employer is made aware of an employee feeling discriminated at work by someone working or doing an internship with the employer, they are obligated to investigate the circumstances and, if applicable, take the reasonable measures required to prevent discrimination in future.

**An employer may not discriminate against an individual who, in relation to the employer, is**

- an employee
- making a request or applying for a job
- applying for or carrying out an internship
- available or engaged to carry out work as hired or borrowed labour.

**Examples of situations that may constitute discrimination in working life**

- An employer perceives an applicant's name as foreign-sounding and therefore does not give the applicant an interview.
- A probationary employment is interrupted when the employer becomes aware that the employee is pregnant.
- A manager makes unwanted sexual advances towards an employee.
- An employer refuses to increase lighting for an employee with a visual impairment.

## 4.4 Discrimination in education

If the education provider becomes aware that a student participating in or applying to the provider's activities feels that they have been subjected to discrimination in connection with these activities, the education provider is obliged to investigate the circumstances and, where appropriate, take any reasonable measures to prevent harassment in future.

**An education provider may not discriminate against an individual who, in relation to the provider, is**

- a student
- a student participating in or applying to an education activity

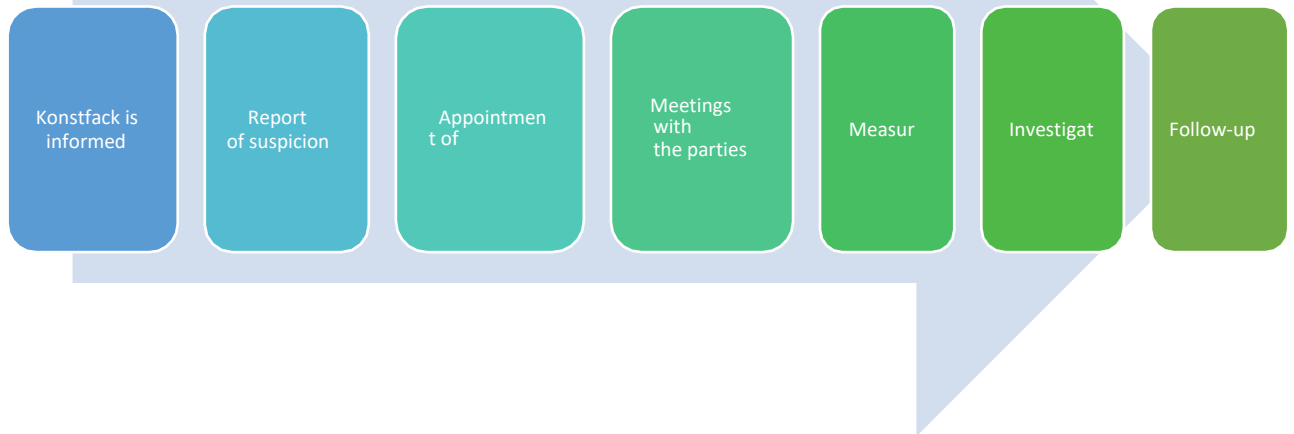
**Examples of situations that may constitute discrimination in education**

- A student receives a lower grade due to their ethnicity.
- A teacher makes sexual advances towards a student.
- A student with dyslexia does not receive educational support.
- A student is denied returning to studies following a period of leave due to pregnancy.



## 5. Work process

The following outlines the administrative procedures in the event of suspected discrimination



### 5.1 Konstfack is informed

If Konstfack is made aware of suspected discrimination, the responsible manager must find out what has happened and make an assessment of the incident.

Regardless of whether a report has been made, the university is obligated to investigate all cases they are made aware of.

This applies whether the subject of discrimination is an employee, student or a person equivalent to such.

It is very important to act promptly after Konstfack is informed of an incident.

If the behaviour is not of a serious nature, or it can be prevented through a direct reprimand, it may be sufficient to inform the person responsible that their behaviour is inappropriate. This may allow the issue to be dealt with locally without opening an investigation.

This is always a difficult assessment for the manager to make, and can sometimes be difficult to decide. If there is any doubt, the manager should consult the Vice-Chancellor, University Director or other superior.

If the manager makes the assessment that the events are of such a serious nature and/or the matter cannot be handled locally, a report is made, see step two “Report”.

#### Anonymous cases

An anonymous report, which does not identify the person making the report or the person wishes to withhold this information, cannot be used as the sole basis of disciplinary action. The university can however take general preventive measures.

## 5.2 Report of suspicion

*The HR Department and/or the Education and Research Administration Division must be informed no later than in this step.*

If there is a grounded suspicion of discrimination, the incident must be promptly reported to the Vice-Chancellor.

An administrator at the HR Department or at the Education and Research Administration Division enters the matter in the university records.

As these cases can be of a sensitive nature, there is a procedure for these documents to be kept by the HR Department or by the secretary of the Disciplinary Board.

## 5.3 Appointing a person responsible for investigation

The investigation shall primarily be handled by the responsible manager in consultation with the HR Department or the Education and Research Administration Division. The person in charge of the investigation should have sufficient expertise and the possibility to act objectively, and should also have the trust of the parties involved.

The person in charge of the investigation also makes the assessment of whether it is suitable to involve an external party.

### **Important to consider when you are appointed as investigator**

- Clearly stress that discrimination and/or victimisation will not be accepted at Konstfack.
- Investigation and action shall always be carried out promptly and meticulously.
- Avoid sharing information with anyone who is not directly involved, in order to avoid rumours.
- Both parties must be heard and have a chance to express their arguments and opinions.
- It is not sufficient to note that it is a case of one person's word against another's. The employer must form their own opinion about the situation.
- Take no action without informing the parties involved.
- Inventory needs and offer support (see advisory resources).
- Depending on the situation, there may be other suitable approaches to this process. Consult the HR Department and/or the Education and Research Administration Division regarding alternative methods.
- Each step and event of the investigation must be documented.
- If the information proves to be a heavy burden, you can receive support counselling or other assistance through the HR Department or the Education and Research Administration Division.
- In some cases, the behaviour or actions can be classified as criminal offences and will consequently be subject to the Penal Code, which means the police should be contacted.

## 5.4 Talks with the parties involved

Before holding these talks, it is important to inform all the parties that an investigation has been opened, along with information about how the investigation will be conducted and who will be investigating the incident.

Talks are then scheduled.

The talks must involve the person conducting the investigation and the individual concerned, at the least.

A HR representative, trade union representative, safety representative, or representatives from the occupational health service, the Education and Research Administration Division or the student health service may also participate in the meeting.

Other parties involved, such as informants and possible witnesses, will be interviewed.

### Talks with the person who was subjected

- Clarify the university's position on discrimination and that it is not allowed.
- Information about how the case will be processed must be provided
- Ask the person to give an account of their version of events.
- Find out whether this was an isolated incident or if it was part of a recurring pattern.
- Find out whether the subjected person or another party has made it clear to the person being accused that their behaviour was unwanted.
- Discuss suggested measures
- Explain what reprisals are and that they are prohibited.
- Come to an agreement on when and how follow-up is to happen
- All incidents must be documented (what/when/who)

#### **Remember**

- Do not belittle or excuse what the person has experienced. Making a report puts the person in a very vulnerable position, and it is appropriate to treat them with particular care.
- The emphasis of the talks should be how the subjected person perceived the violation, not the reasons behind it.

### Talks with the person who is accused

- Clarify the university's position on discrimination and that it is not allowed.
- Information about how the case will be processed must be provided
- Clarify how the subjected person feels and how they perceived the situation, and make sure that the person accused understands.
- The accused person must be given an opportunity to give their version of events.
- Discuss suggested measures
- Explain what reprisals are and that they are prohibited.
- Come to an agreement on when and how follow-up is to happen
- All incidents must be documented (what/when/who)

## 5.5 Measures

After completing the talks and gathering information, the person conducting the investigation considers whether any action needs to be taken.

If the discrimination has been proven, measures are to be taken immediately to prevent it from being repeated.

Measures are to be taken for the short and the long term, and they must be adjusted to each individual case, as well as to the university's legal and actual possibilities of investigating the case at hand.

The need for help and support measures should be particularly emphasised.

The measures shall be taken in consultation with the parties involved, and there must be a clear plan in terms of accountability, aim and follow-up.

Investigate if it is possible to find a joint solution that is acceptable to both parties. If it is difficult to agree on measures, the appointed investigator decides which action to take.

### **The case is reported to the Vice-Chancellor**

If an investigation has been conducted due to suspected discrimination involving an employee or student of the university, a report must always be made to the Vice-Chancellor. The Vice-Chancellor thereafter determines whether the matter is of such a serious nature that it is to be submitted to the Staff Disciplinary Board or the Disciplinary Board.

## 5.6 Investigation

The investigation is to contain information regarding:

- What happened, i.e. the information submitted by the victim and other involved parties about the incident.
- Whether this was an isolated incident or if it was part of a recurring pattern.
- Whether the subjected person or another party has made it clear to the person being accused that their behaviour was unwanted.
- What measures need to be taken to make the unwanted behaviour stop and to prevent similar incidents in the future.
- How the case is being processed.
- Konstfack's position, if the matter relates to discrimination in the legal sense.

## **5.7 Follow-up**

Regardless of whether the case is closed or continues to the Vice-Chancellor and possibly to the Staff Disciplinary Board or the Disciplinary Board, follow-up must be carried out with the accused, the victim and with other parties concerned by the events.

In the talks with the person subjected, it is important to determine whether the problems persist and if the measures taken have had the intended result.

In the talks with the accused person, it is important to make sure that they understand that their behaviour was unwanted and that it will not be repeated.

The follow-up must be adjusted to the case at hand, which can mean recurring follow-up. A decision is made on each occasion as to whether continued follow-up is necessary.

## 6. Victimisation

Victimisation that is not related to any of the grounds for discrimination is not included in the provisions of the Discrimination Act, but subject instead to the Work Environment Act.

The regulations are found in the provisions of the Swedish Work Environment Authority on Systematic Work Environment Management (AFS 2001:1) and on Organisational and Social Work Environment (AFS 2015:4).

In accordance with these provisions, the employer is responsible for preventing victimisation through planning and organisation of work in order to, as far as possible, prevent anyone from being subjected to victimisation.

Systematic work environment management is to be used to discover early indications of victimisation, which can then be promptly rectified.

In the case of suspected victimisation, the employer shall investigate and take necessary measures to make the behaviour stop.

Victimisation refers to repeated behaviour that is perceived as offensive by the person(s) subjected to it. Such behaviour is often perceived as incomprehensible and unfair. The behaviour may lead to exclusion of those subjected from the social circle.

In the worst case, this can evolve into bullying.

### Examples of victimisation

- Not being greeted
- Being called derogatory names
- Being ignored
- Being excluded from meetings that you should participate in
- Being unjustly blamed or personally exposed
- Intentional sabotage or hindrance of work efforts
- Intentional withholding of work-related information or giving incorrect information
- Victimization can also take place via e-mail, text message and social media

The provisions do not apply to students. However, Konstfack has opted to deal with victimisation of students in the same way as victimisation of employees.

## **6.1 Work process and measures**

The process in cases relating to victimisation is the same as that for discrimination. However, there is no requirement for a formal report or investigation. Measures are instead aimed to prevent future risk of occupational injury or ill-health, and they are documented within the scope of continuous work environment management.

The manager is responsible for promptly taking measures to rectify and prevent victimisation.

As in the case of suspected discrimination, the manager, the victim and the accused person can all receive support and guidance (see advisory resources).

When victimisation is found to have occurred, the Vice-Chancellor must always be informed. The Vice-Chancellor thereafter determines whether the matter is of such a serious nature that it is to be submitted to the Staff Disciplinary Board or the Disciplinary Board.