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PROCEDURES – WHISTLEBLOWING AT UMEÅ UNIVERSITY

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¹ This document has been translated from Swedish into English. If the English version differs from the original, the Swedish version takes precedence.



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Description

These procedures describe Umeå University's whistleblower function. They outline the University's reporting channels and how follow-up cases are to be processed by the authorised office.

1 Background

The Swedish Act on special protection for workers against reprisals for whistleblowing concerning serious irregularities (2021:890), referred to as the Swedish Whistleblowing Act, contains provisions outlining the duties an operator has to establish reporting channels where they can be notified of certain specific wrongdoings that arise in a work-related context. In this document, the terms "Whistleblowing Act" and "the Act" will be used interchangeably.

The Act states that in its role as an operator, Umeå University has a duty to ensure there are internal reporting channels and procedures in place for reporting and follow-ups available to people who are, or have been, active at the University.

In addition, the University must describe the whistleblower function in its entirety, i.e., what reporting channels are available, how reports are received, how acknowledgements of receipt are provided, how the reports are documented, how reported conditions are investigated, and how the person reporting will receive feedback. This description can be found in Section 5.

These procedures are aimed primarily at the office competent to manage the whistleblower function at Umeå University. The University's staff website contains information aimed at employees and others who can act as whistleblowers. The information outlines the whistleblowing procedure both via internal and external reporting channels, and provides details about the protection afforded to a whistleblower in the form of the freedom to communicate and procure information, and the ban on inquiries and reprisals.

These procedures complement and expand upon the whistleblowing information on the University's staff website. Together with the contents of this document, the information on the staff website meets the legal requirements expected of Umeå University in its capacity as operator.

A work environment perspective has been integrated into these procedures. Due to the content and nature of this document, the sustainability, international, collaboration and student perspectives have not been integrated.



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The Whistleblowing Act intends to increase security for whistleblowers who report wrongdoings that could create unequal conditions for men and women. Hence, the proposal is deemed to have a positive effect on gender equality at the University.

These procedures must be made available in English, as they are of great fundamental importance and are highly significant for employees.

2 Definitions

Chapter 1, Section 8 of the Swedish Whistleblowing Act contains definitions of certain terms and expressions. These are presented in English below translated for the purpose of this document. These terms are also used throughout this document.

1. Report or reporting: information about wrongdoings submitted either verbally or in writing via internal or external reporting, or publishing

2. Reporting person, or “whistleblower”: the person who has received or obtained information about wrongdoings in a work-related context, who then reports this, and belongs to one or more of the following categories:

- workers,
- people enquiring about or seeking employment;
- people seeking or performing volunteer work;
- people seeking or participating in an internship;
- people otherwise at the disposal of the operator to perform work under their supervision and management;
- sole traders seeking or performing tasks;
- people who are available to serve on, or who serve on, a corporate administrative, management, or supervisory body;
- shareholders whose professional skills are at the disposal of or work at a limited company, or
- people who have belonged to one of the above categories and who received or obtained the information during their time at the organisation.

3. Operator: a physical or juridical person in the private sector, and a state administrative authority, court, or municipality in the public sector, and

4. Follow-up case: a case that involves



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- receiving a report via an internal or external reporting channel, and being in contact with the reporting person;
- forwarding a report to the person responsible for its receipt, if the report has been submitted in any other way to an authority that has a statutory requirement to operate external reporting channels and when the report was intended for said reporting channels;
- take action to assess the accuracy of the statements made in the report;
- hand over the statements investigated for further action, and;
- relay feedback about the follow-up to the reporting person.

3 Legal context

The Act applies when the reporting person notifies the reporting channels of work-related wrongdoings, where there is a public interest in the conditions being made known and in cases where the wrongdoings are actions or omissions in breach of EU law.

The Act protects the reporting person by freeing them from responsibility and prohibiting preventive actions and reprisals.

3.1 Work-related context

The Act states that reporting must take place in a work-related context. “Work-related context” refers to a person’s current or previous work in which they can or could have obtained information about wrongdoings, and be subjected to reprisals if the information is reported. The Whistleblowing Act stipulates the specific categories of people it protects.

The Act does not apply when reporting something outside of a work-related context, such as reporting information a person has obtained in the role of customer, client, patient, or student.

When reporting wrongdoings in a work-related context, there needs to be a public interest in the information about the wrongdoings emerging.

3.2 Wrongdoings of public interest

To determine whether there is a public interest, the reported wrongdoings must concern a group of people that may represent the public. The wrongdoings must be of concern to a large enough group of people that it can be deemed as the public.



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Complaints relating to a conflict between the reporting person and another worker do not fall under this Act. As a rule, the Act does not apply if the wrongdoings only affect the reporting person's own work or employment conditions. Corruption and embezzlement are, in principle, always wrongdoings of public interest.

Furthermore, the general public must have a legitimate interest in the wrongdoings becoming known, for example if the wrongdoings have a negative impact on the general public and can thereby be remedied. The more frequent and systematic the wrongdoings are, the greater the public interest is for these wrongdoings being remedied or terminated. Wrongdoings may, for example, be of a work environment nature and therefore, as a rule, they are covered by the Act. Assessments are proactive, the aim of the wrongdoings coming to light is so the authority can rectify the problem.

Material scope, such as public procurements, may also be regarded as public interest as they are often of significance to society as a whole. As a rule, violation of regulations issued by the Riksdag, the Swedish Government or other public authority are also considered being of public interest, provided these violations are not trivial. The previous Whistleblowing Act almost exclusively required the wrongdoing to be a criminal act that would result in a prison sentence. According to preparatory work for the Whistleblowing Act, the changes should not lead to any significant changes to that legal position. If the wrongdoings reported are serious, they are often of interest to the general public.

Matters related to incorrect or unauthorised use of public assets also fall under the definition of public interest, provided they are not trivial.

3.3 Actions or neglect in violation of EU laws

The Act also applies when reporting wrongdoings that constitute an action or an omission in breach of EU law, and certain Union laws, acts, or provisions described in the Act.

Breaches of Union law refers to illegal activities and violations of EU law. The areas this comprises are public procurement; financial services, products and markets, and prevention of money laundering and terrorist financing; product safety and compliance; transport safety; protection of the environment; radiation protection and nuclear safety; food and feed safety, animal health and welfare; public health; consumer protection; protection of privacy and personal data, and security of network and information systems.

The material scope is further described in the Whistleblower Directive (Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law).



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3.4 Classified information and similar

The Act does not apply when reporting matters related to classified information as defined in the Swedish Protective Security Act, or information related to the nation's security used in activities at a public security or defence authority.

3.5 Anonymous reports

There is no obligation to accept anonymous reports. Umeå University requires that the reporting person provides their identity, so the University can determine whether the person falls under any of the categories covered by the Act. If the reporting person does not state their identity, the report is not considered to be a report as per the Whistleblowing Act.² Hence, the reporting person cannot expect the protection afforded by the Whistleblowing Act.

The staff website contains information about who is covered by the Whistleblowing Act, the protection afforded to a reporting person through the Whistleblowing Act and other acts, and what is required for a person to be protected by the Act.

3.6 Conditions and freedom from responsibility

The person reporting must have reasonable grounds to believe the details are true. Concrete evidence is not necessary; reasonable misgivings or suspicions will suffice.

The conditions must either have taken place, or it must be highly likely that they will take place in the future. Reports of attempts to conceal wrongdoings are also protected by the law.

4 Organisation

Following a decision by the Vice-Chancellor, the Legal Affairs Office at the University Administration has been appointed as the University's whistleblower function (FS 1.2.3-644-22).

Employees of the Legal Affairs Office who process cases in the capacity of the whistleblower function act independently, and are able to act freely on the University's behalf. They may independently receive reports and be in contact with the reporting person, decide to follow up on what has been

²Öman, the Whistleblowing Act (2021:890) (20 December 2021, JUNO) comment on Chapter 5, Section 7.



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reported by initiating and concluding investigations. They may reach conclusions based on the follow up of reports, and hand over information about the statements investigated to the relevant decision maker at the University for further action. They may also provide reporting persons with feedback about the follow up.

5 Reporting channel

5.1 Description of internal reporting channel

Umeå University is to have an internal reporting channel to enable a person to submit a report of wrongdoings, either in writing or verbally, or, if requested, in person within a reasonable timeframe.

Confidential information may not be processed using the University's email system, hence reporting and subsequent contact with the reporting person must not be conducted via email.

The reporting person can submit reports to the University's reporting channel by:

- Posting the report to the following address – Umeå University, Whistleblower function, SE-901 87 Umeå.

The reporting person will receive a confirmation of receipt within seven days of the arrival of the report, unless the reporting person has stated they do not want such a confirmation, or, if sending a confirmation would risk disclosing the reporting person's identity. The confirmation will be sent via post, or where appropriate, provided over the phone, and will contain the case registration number.

- Using the online form that can be accessed via the staff website – If something happens/Whistleblower function. The online form enables the reporting person to submit their report directly, request a physical meeting, or ask to be contacted via telephone to submit a report verbally. An automatic confirmation of receipt will be sent to reporting persons who use the online form. The confirmation will contain the case registration number.
- Adding to a previous report by sending a letter to the address stated above. In such cases, it is important to include the registration number included in the confirmation of receipt.

The reporting person will receive a reasonable degree of feedback about the actions taken when investigating the report, and the grounds for these actions. Feedback about the follow-up case is either sent by letter, provided



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over the phone or issued in another suitable manner. More information about feedback is presented in Section 6.3.

The report and documents belonging to the follow-up case will be registered and archived as per the applicable retention and deletion plan. All documentation is considered official documents and are therefore public.

However, there is a certain degree of confidentiality concerning follow-up cases. More information about confidentiality is presented in Section 9.

6 Follow-up cases

Once a report is received, the head of the authorised office will allocate a suitable case officer from the Legal Affairs Office. The case officer will begin by assessing whether the Whistleblowing Act applies to the report that has been received.

If the Whistleblowing Act does not apply to the report, the case will not be processed any further. Where appropriate, the information that has been received may be handed over to the relevant decision-maker for further action.

If the Whistleblowing Act applies, and a follow-up case is pursued, the case officer must, in summary:

- process the report and ensure that the reporting person receives a confirmation that their report has been received within seven days of its receipt;
- assess the accuracy of the statements made in the report through investigation;
- where appropriate, hand over information about the statements investigated to the relevant decision-maker for further action,
- provide reasonable feedback to the reporting person about the actions that have been taken during the investigation, and the reasons why the actions were taken. This must take place within three months from confirmation of receipt, or, if no such confirmation was issued, within seven days of receipt.

6.1 Investigating the follow-up case

When a report has been received, the whistleblower function must act and assess the accuracy the truth of the statements made in the report.



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If necessary, the case officer will obtain help with the investigation, expert support or specialist skills from within the University, in order to provide the whistleblower function with the necessary resources to investigate a follow-up case correctly and fairly.

Where appropriate, the authorised office may also hand over information about the statements investigated to the relevant decision-maker for further action. Such actions may include dismissal, termination, notification of disciplinary consequences or similar. They can also include other actions based on the follow-up case and that will be taken to rectify wrongdoings. Only information that is necessary for taking action needs to be submitted.

If the received report suggests that a crime may have been committed, the whistleblower function will not begin an investigation, instead the case will be closed, and the police will be notified. The reporting person will be informed.

If it becomes clear during the processing of a follow-up case at Umeå University that there is reason for another public authority to take action based on what was presented in the matter, the details necessary for the other authority to take action must be handed over. This duty to share information will not be hindered by confidentiality, and the whistleblower function can hand over the information to other public authorities.³

6.2 Documenting verbal reports

When the whistleblower function receives a verbal report, the information reported must be documented in a suitable manner. The whistleblower function will determine whether documentation will be in the form of minutes taken, a recording, or other suitable method. If a verbal report is received in a way other than a physical meeting, the duty to document can be met by creating a written copy of what was said in a recording or other suitable method. If minutes are taken, it is sufficient that the details submitted are edited and compiled. A transcription is not necessary.

Consent must be obtained if a recording will be made. The reporting person must be given the opportunity to check and correct the recording or minutes. By providing their signature, the reporting person approves this documentation.

Documentation should be created on the premise that it can be used as evidence at a later stage.

³ Refer to Chapter 8, Section 2 and Chapter 10, Section 28 of the Public Access to Information and Secrecy Act (2009:400).



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6.3 Feedback

A reporting person must receive reasonable feedback about the actions that have been taken and reasons for these after following up on a report. This feedback must be given within three months from the confirmation of receipt or, if no such confirmation was provided, and this was not due to the reporting person, within seven days from receipt.

If the reporting person has waived the confirmation or feedback, no feedback will be provided.

Follow-up refers to the actions taken to assess the accuracy of the statements made in the report and, where applicable, to process the reported wrongdoings.

Feedback must be reasonable, meaning that a reporting person may not necessarily have the right to receive information about all subsequent actions taken, or be made aware of the reasons for them.

Feedback must consider any confidentiality of the information in the case. For example, confidentiality clauses may prevent Umeå University from disclosing certain information.

If feedback is provided via telephone, this must be recorded in an official note which is then registered.

7 Annual reporting

The authorised office must provide the University Director with an annual report of the number of follow-up cases, the areas affected by the reports and any other information summaries. This information must be anonymised and consider the confidentiality that may apply for details in the follow-up cases.

8 Personal data processing

The Whistleblowing Act contains supplementary regulations to the General Data Protection Regulation, meaning that the provisions in the Act concerning personal data processing cannot be applied separately, instead they apply together with the General Data Protection Regulation.

- Personal data may be processed if the processing is essential for a follow-up case.
- Personal data may also be processed if it is necessary for actions to be taken based on information that emerged from a follow-up case. This



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may include actions that need to be taken by a management function, legal function, or human resources function at the University.

- Personal data may be processed if it is necessary for the reports to be used as evidence in legal proceedings. The proceedings that are most relevant are disputes as per this Act, labour legislation disputes, for example when a person is removed from their employment, and criminal proceedings regarding, for instance, defamation cases.
- Personal data may be processed to ensure that the data provision is in accordance with laws and ordinances. Such data provision may be relevant if, for example, information needs to be disclosed to comply with the Public Access to Information and Secrecy Act (2009:400).
- Processing for archiving purposes of public interest, scientific or historical research purposes, or statistical purposes pursuant to Article 89.1 of the General Data Protection Regulation must not be seen as being in conflict with the original purposes.

Personal data that is not relevant to processing a specific report must not be collected. If this data has been collected accidentally, it must be deleted as soon as possible.

Only those who work at the offices authorised to receive, follow up and provide feedback on reports may have access to personal data processed in a follow-up case. Access to personal data must be restricted to what is necessary for each person to be able to conduct their work.

9 Duty of professional secrecy

A person who processes a follow-up case must not, without authorisation, disclose any information that may reveal the identity of the reporting person, or any other individual in the case. This duty of professional secrecy also applies to Umeå University employees who receive information about the investigated statements containing details of further actions, or who in another way come into contact with the information.

The paragraph only forbids unauthorised disclosure. Complying with the duty to share information if stipulated by law or ordinance is considered authorised disclosure. Transferring information between different authorised people, or people who work at an office that has been authorised is considered authorised disclosure. Forwarding information to the HR function at the organisation where labour law action will be taken, or for a police report, are examples of authorised disclosure. If a reporting person has knowingly submitted false information about an affected person, notifying the affected person is considered authorised disclosure. Disclosure is considered authorised if the person who is protected by professional secrecy



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consents to having the protected information distributed. This also applies when the consent is provided via a trade union.⁴

Chapter 17, Section 3b and Chapter 32, Section 3b of the Public Access to Information and Secrecy Act outline the provisions for confidentiality in organisations processing cases reported via reporting channels.

9.1 Confidentiality in follow-up cases – Chapter 17, Section 3b of the Public Access to Information and Secrecy Act

In follow-up cases under the Whistleblowing Act, confidentiality applies for information that can disclose the identity of another individual than the reporting person.

Information that can be subject to confidentiality includes such which is received in a report submitted to the reporting channels, as regulated in the Act, and data collected when processing the follow-up case. This can include interviews with witnesses, for example. The objective conditions stipulated in the Whistleblowing Act do not need to be met in order for confidentiality to apply, see Chapter 4 of the Act.⁵

Confidentiality applies in relation to the person who is subject to the follow-up, i.e., an affected person. Affected persons may, for example, be those who are accused of wrongdoings, those who are called upon as witnesses during the follow-up, or those who have assisted the reporting person.

Confidentiality applies if the purpose of the follow-up could be impeded. The question to be answered is whether the particular follow-up will be harmed if the information is disclosed. The answer may vary depending on the stage of the follow-up. During the initial stages of the follow-up, it may be important to not bring any suspicions of wrongdoings to the attention of the person concerned. If they have access to such information, there may be a risk that they take action to obstruct the follow-up or render it impossible, for example, by concealing evidence. If a person becomes aware that a follow-up is ongoing, this may be hindered if the person can continually access the information collected as part of the follow-up case, or if the person becomes aware of the actions being planned or implemented.

Generally, the suspected person's right of access should increase as the investigation progresses. There must be continual assessments to deter-

⁴Government bill 2020/21:193 page 304.

⁵Government bill 2020/21:193 page 308.



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mine if certain information is to be subject to confidentiality. The information must be distributed as soon as it is clear that a follow-up no longer risks being impeded or obstructed.

The duty to share information as stipulated in Chapter 5, Section 10 of the Whistleblowing Act means that confidentiality does not prevent information from being transferred from the whistleblower function to other sections of the authority, or to other authorities. In these instances, Chapter 8, Section 2 and Chapter 10, Section 28 of the Public Access to Information and Secrecy Act apply.

Chapter 8, Section 2 of the Public Access to Information and Secrecy Act addresses confidentiality at a public authority. It states the provisions on transferring information to other public authorities in addition to different organisational branches at a public authority if they are considered to be independent of each other. At Umeå University, the Staff Disciplinary Board and the Disciplinary Board are deemed to have such independent positions. However, the relationships between other parts of the University's organisation should not be seen as being independent organisational branches. Hence, the University's whistleblower function is able to enlist investigative support in a follow-up case from another part of the University.

9.2 Confidentiality for individuals – Chapter 32, Section 3b of the Public Access to Information and Secrecy Act

The provisions regulate confidentiality in follow-up cases as well as cases about continuing actions following reports of wrongdoings. Confidentiality applies in follow-up cases as defined in Chapter 1, Section 8, Point 4 of the Whistleblowing Act, and such cases stated in the provisions in the Public Access to Information and Secrecy Act and that originate in follow-up cases as per the Whistleblowing Act.

Confidentiality applies as further described in 9.2.1 and 9.2.2.

9.2.1 Protecting the reporting person's identity

Absolute confidentiality applies for information that could either directly or indirectly disclose the identity of the reporting person. Such information includes the person's name, address, telephone number, or their position, workplace, or work tasks.

9.2.2 Protecting the identity of others

Confidentiality also applies for information that may identify other persons than the reporting person. The term 'other persons' refers to anyone who



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may be included in a follow-up case or actions, for example, those who are alleged to have caused the wrongdoings, those who are called upon as witnesses, or those who have supported the reporting person. Both physical and juridical persons are covered. It is a question of confidentiality with the reverse requirement of damage, i.e., the information may not be disclosed if it is unclear that the information can be disclosed without risk of damage or harm.

10 External reporting channels

The Whistleblowing Act states that wrongdoings can be reported either internally at the workplace, or externally to a public authority. The Swedish Government's ordinance (2021:949) on affording protection to whistleblowers stipulates that certain public authorities must establish and manage external whistleblower functions.

The public authorities that the Government has appointed must offer external reporting channels to receive, follow up and provide feedback on reported wrongdoings within their designated area of responsibility. The appendix to the ordinance states which material scope for which each authority is responsible.

The Swedish Work Environment Authority has been appointed as an authorised public authority with additional responsibilities. This means that the Swedish Work Environment Authority must process reports that are not covered by any other public authority's area of responsibility. Additionally, the Swedish Work Environment Authority is the supervisory authority for ensuring that the legal requirement to establish internal whistleblower functions has been met, as per the Whistleblowing Act.

The Swedish Government has appointed the following as authorised public authorities. The following authorities must provide information on their website about their areas of responsibility and how to report.

Swedish Work Environment Authority

National Board of Housing, Building and Planning

National Electrical Safety Board

Swedish Economic Crime Authority

Swedish Estate Agents Inspectorate

Finansinspektionen (the Swedish Financial Supervisory Authority)

Public Health Agency of Sweden



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Swedish Agency for Marine and Water Management

Swedish Authority for Privacy Protection

Inspectorate of Strategic Products

Health and Social Care Inspectorate

Swedish Chemicals Agency

Swedish Consumer Agency

Swedish Competition Authority

Swedish Food Agency

Swedish Medical Products Agency

County Administrative Boards

Swedish Civil Contingencies Agency

Swedish Environmental Protection Agency

Swedish Post and Telecom Authority

Government Offices of Sweden

Swedish Inspectorate of Auditors

Swedish Tax Agency

Swedish Forest Agency

Swedish Gambling Authority

Swedish Energy Agency

Swedish Board of Agriculture

Swedac

Swedish Radiation Safety Authority

Swedish Transport Agency