

# POLICY ON THE PREVENTION OF DISADVANTAGE, DISCRIMINATION, SEXUAL HARASSMENT AND VIOLENCE AT THE UNIVERSITY OF THE ARTS BREMEN (DIRECTIVE)

Passed by the Academic Senate on 30.06.2010

## PREAMBLE

The University of the Arts Bremen (HfK) values fair treatment of each other in the place of work or study. It therefore promotes respectful cooperation between employees and students at all functional levels in studying, teaching, art, research and services.

The HfK also sets itself the goal of actively working towards the equality of women and men at all status levels. Disadvantage, discrimination, sexual harassment and violence represent a breach of the rights of those affected and will not be tolerated at the university. The HfK assumes the responsibility for an environment that is free from disadvantage, discrimination, sexual harassment and violence while exercising its duties and advocates the safeguarding of personal rights and individual personal limits within the meaning of legislation, taking into account the freedom of art, science, research and teaching that is guaranteed under the German constitution.

The following directive serves to prevent or remove direct or indirect discrimination and disadvantage on the grounds of ethnic origin, gender, religion or philosophy, disability, age or sexual identity as well as sexual harassment and violence. The directive therefore serves to implement the German General Act on Equal Treatment (AGG) of 14 August 2006 and puts the instructions on banning sexual discrimination and violence in the workplace issued by the Free Hanseatic State of Bremen on 23 March 1993 into concrete terms. The integral complaint procedure regulates the handling of complaints in the event of a breach of this directive.

All members and associates of the University of the Arts Bremen are required to cooperate in the organisation of their work and study place, which is to be characterised by mutual respect and tolerance and leave no room for disadvantage, discrimination, sexual harassment or violence.

## § 1 SCOPE

The directive applies to all members, associates, guest students and visitors to the university.

## § 2 DEFINITION OF TERMS

### (1) INDIRECT AND DIRECT DISADVANTAGE

A direct disadvantage exists when a person receives, has received or would receive less favourable treatment on the grounds of ethnic origin, gender, religion or philosophy, disability, age or sexual identity than another person in a comparable situation.

An indirect disadvantage exists if seemingly neutral rules, criteria or procedures could place people at a disadvantage to others for the reasons stated above in a particular way, unless said rules, criteria or procedures are justified objectively by a lawful aim and the means are reasonable and necessary to achieve this aim.

### (2) DISCRIMINATION

Discrimination is the degradation of the dignity, rights and freedoms of people. It can be displayed in statements and actions of degrading content, for example. Discrimination and disadvantage can extend beyond the reasons listed above and can also be based on social origin and appearance, for example.

### (3) SEXUAL HARASSMENT AND VIOLENCE

Any behaviour or action that is humiliating in a sexual regard and has the consequence that the person affected is threatened, demeaned and/or harassed is deemed to be sexual harassment or sexualised violence. In principle, such behaviour or action, which is perceived by the person affected as degrading, hurtful or unwelcome also falls under the term of sexual harassment or discrimination. This can be manifested in verbal or non-verbal form or physical assault.

Sexual discrimination and violence are expressed in many different ways and means. This occurs verbally, non-verbally and even through physical assault. The whole topic of sexual discrimination and violence is to be characterised through the following examples of conduct and action:

Conscious comments with sexual content, in particular

- Use of sexually derogatory language,
- Degrading and depersonalising comments about persons and/or their bodies, which are expressed in a context of a sexual nature (including subtly),
- Sexually derogatory comments about intimate private life and the body.

Unwelcome display and visible affixing of pornographic images with insulting intention, in particular

- Obscene and sexually derogatory graffiti in public spaces,
- Verbal, pictorial or electronic presentation of obscene, sexually derogatory images,
- The copying, application and use of obscene, sexually derogatory computer programs and Internet sites on computer systems in offices or on the university campus.

Unwelcome sexual actions and invitations to such, in particular

- Sexually motivated physical contact,
- Invitations to sexualised or sexual conduct,
- Pursuit and assault (including indirect) of a sexual background,
- Physical abuse and rape.

Sexualised violence is regarded particularly gravely if it is associated with references to a possible link between the fulfilment of sexual demands and advancement or a disadvantage in work or student life.

## § 3 OBLIGATIONS AND CONDUCT

(1) Associates and members of the HfK will not be disadvantaged or discriminated against on the grounds of ethnic origin, gender, religion or philosophy, disability, age or sexual identity. As well as this it is the duty of the university to protect people from disadvantage, discrimination, sexual harassment and violence within its sphere of influence.

(2) All members and associates of the HfK are obliged to refrain from any kind of disadvantage, discrimination, sexual harassment and violence whatsoever against employees, students and other third parties.

(3) The HfK will pursue any breaches of this directive and take action at their discretion in line with their duties. At the same time the university shall ensure that no disadvantage shall be incurred by persons affected arising from the justifiable reporting of misconduct. To this extent it will agree all the steps of the procedure with the person affected as far as possible and ensure the anonymity of the person affected to the greatest possible extent. The person affected will only be revealed to the required extent if this is mandatory under statutory regulations or in the overwhelming public interest.

(4) The presumed innocence of accused persons shall be heeded.

## § 4 REPRESENTATION OF INTERESTS AND PROVISIONS FOR ADVICE

There are various confidential options for advice available at the HfK for associates and members for self-protection and action against disadvantage, discrimination, sexual harassment and violence:

- The Central Women's Representative in accordance with the Bremen University Code for students and tutors,
- The Women's Representative in accordance with the state equality law (LGG) for the staff in the services area,
- The Dean of Studies for students,
- The mediators for all members of the university,
- the General Students' Committee (AStA) for students,
- the staff council for employees,
- the Office against Discrimination and Violence (ADE) at the University of Bremen (by appointment) for all members of the university,
- the external advice centre of the HfK for conflicts and the violation of boundaries in studies, teaching or work,
- the Psychological Therapeutic Centre (ptb) of the Bremen students' union for students.

## § 5 RIGHTS OF COMPLAINT

(1) Members and associates of the HfK, who feel they have been disadvantaged, discriminated against or sexually harassed or have become the victim of violent assault by governing bodies, employees or tutors at the university, or by superiors, students or other third parties, have the opportunity and the right to initiate a choice between a simple and a formal complaint procedure. It must be ensured that the use of this right of complaint does not result in any personal or professional disadvantage.

(2) Women and men who have been affected should feel encouraged by this not to accept disadvantage, discrimination, sexual harassment or violence, but to make their refusal to accept it unmistakably clear and to tackle it actively.

(3) All persons with duties of management or care are generally obliged to pursue references to disadvantage, discrimination or sexual harassment or violence and if there is a suspicion of it to take steps to clarify, pursue and prevent it.

(4) The women' representatives will be involved in the complaints procedure, unless the person affected disagrees.

## § 6 COMPLAINT PROCEDURE

### (1) SIMPLE COMPLAINT

a) The simple complaint can be submitted to the superiors of the affected and accused persons, the representatives of interests (the women's representatives, the staff council and the AStA), the deans of studies, the mediators and the personnel department.

b) After receipt of the complaint an initial consultation is held by the office applied to in agreement with the person affected, in which the person affected is made aware of the support options offered by representatives of interests and advice centres and psychological advice services. This includes information on rights, options to proceed and act and the official complaint procedure in accordance with this directive. As a consequence of the application the office applied to can initiate steps within the scope of the simple complaint procedure pursuant to section 7 (1) of this directive. It shall instigate of its own accord and where legally possible, a formal complaint procedure if this is imperative in terms of the individual case, also taking into account the justifiable interests of the person affected. This is particularly the case if the gravity of the breach of this directive that has taken place renders disciplinary action urgently necessary within the framework of a formal procedure in the opinion of the office applied to, or if such a procedure is announced to prevent further – not inconsiderable – violations of legally protected interests.

### (2) FORMAL COMPLAINT PROCEDURE

a) The formal complaint procedure is carried out by the executive of the university. The formal complaint must be addressed to them. It must be in writing and contain the following information:

- Description, location and date of the incident,
- Persons involved,
- Witnesses and evidence (if any),
- Information about steps already taken,
- Persons informed.

b) The executive of the university or the office commissioned by the executive of the university to carry out the procedure shall investigate the facts of the matter ex officio. The required details and information shall be collected in this process and the essential steps of the procedure documented.

c) The executive of the university shall decide on further measures and possible sanctions pursuant to section 7 of this directive on the basis of these findings.

d) Where necessary, the executive of the university shall take or initiate measures in addition to those pursuant to section 7 of these regulations, which are required, taking into account everyone's interests, at all stages of the procedure to ensure the necessary protection of the person affected and the general public.

## § 7 MEASURES AND SANCTIONS

(1) Measures and sanctions in the event of breaches of this directive depend on the position of the accused person in terms of service, work or university regulations. The following informal measures can be weighed up, depending on the circumstances and gravity of the incident while safeguarding justifiable wishes for anonymity and protection needs of the person affected:

- Personal meeting of the person affected or a person in their confidence with the accused person,
- Personal meeting of a superior or one of the named contact persons with the accused with reference to the ban on discrimination, disadvantage, sexual harassment and violence,
- The involvement of mediators and if appropriate instigation of a mediation procedure in accordance with the service agreement on conflict management at the University of the Arts Bremen (as amended).

The executive of the university can consider the following steps as official measures, involving the competent offices depending on the position of the accused person in terms of work, service or university regulations:

- carrying out a formal interview,
- verbal or written instruction,
- written warning,
- transfer,
- exclusion from a course,
- exclusion from the use of university facilities,
- bar from entering the premises,
- de-registration of students,
- termination of contract either with or without notice,
- initiation of a disciplinary procedure and imposition of disciplinary measures, which might include censure, fines, a cut in pay, transfer or removal from service,
- bringing charges.

This list makes no claim to be complete. Conditions and procedures of the individual sanctions shall be determined in detail according to the pertinent legal provisions.

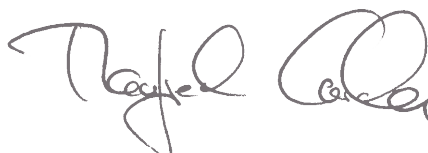
(2) If the accusation is not confirmed care will be taken to ensure that no further disadvantages shall arise for the wrongfully accused person.

## § 8 ANNOUNCEMENT, DISTRIBUTION AND EFFECTIVE DATE

The directive will be published on the homepage of the HfK and all associates and members of the university will be made aware of the directive in an appropriate manner. The directive shall come into effect after the date it is signed.

Bremen, on the 20.09.2010

Approved:



Prof. Dr. Manfred Cordes  
Rector of University of the Arts Bremen