

PROCEDURES FOR NOTIFICATION OF POSSIBLE CENSURABLE CONDITIONS

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1. PURPOSE AND SCOPE

These procedures are established pursuant to the Working Environment Act § 2 A-3.

The University Centre in Svalbard AS (hereafter “UNIS” or “The employer”), wants a culture of free speech at the undertaking. A culture of free speech will contribute to revealing conditions at the undertaking that violate the law or ethical norms. This culture is important for the general working environment and the wellbeing of the individual. UNIS makes clear that the term harassment includes sexual harassment.

All employees, in other words those in full-time, part-time, permanent or temporary positions as well workers hired from temporary-work agencies and interns, etc., have a right – and sometimes an obligation – to notify about what they consider to be censurable conditions at the undertaking. The right to notify also applies to persons who for training purposes or in connection with work-oriented measures are placed at UNIS without being employees, and also persons who without being employees participate in labour market schemes.

The person who notifies about censurable conditions shall be assured that the undertaking will investigate the matter quickly and seriously without this having any negative consequences for the employee (“the person who notified”). Consequently, the purpose of these procedures for notification is to facilitate internal notification of censurable conditions at UNIS and create clarity about how such cases shall be dealt with.

The right to notify pursuant to the Working Environment Act only encompass reports of *censurable conditions*. Typical examples of censurable conditions are violations of the law

and ethical guidelines or standards. This means that conditions that concerns *an employee's own working conditions* is typically not recognised as a notification pursuant to the law. Examples of such conditions may be dissatisfaction with salary level, workload, dispersion of work tasks, ordinary collaborative problems, and personal conflicts. Expressions that does not concern censurable conditions and that is not covered by the notification rules, shall not follow the procedures described in this document.

2. RIGHT AND DUTY TO NOTIFY

Employees have the right to and should notify about censurable conditions at or in connection with UNIS, cf. Section 2 A-1 (1) and Section 2 A-3 (5a) of the Working Environment Act. The term "censurable conditions" should be understood broadly and covers all conditions that constitute breaches of current regulations, guidelines or norms at the undertaking. Examples of this include breaches of:

- Acts and/or regulations
- UNIS' written ethical guidelines and procedures
- General perception of what is ethically acceptable behaviour

Examples of the above mentioned may be:

- Danger to life or health
- Danger to climate or environment
- Corruption or other financial crimes
- Abuse of authority
- An indefensible working environment, including harassment, bullying or discrimination
- Violation of personal information security

As mentioned in the introduction, expressions regarding conditions that only concern an employee's own working conditions will normally not be regarded as a notification pursuant to the law. If such conditions *also* involves violations of the law or ethical norms or guidelines, expressions of such conditions will be covered by the notification rules in the Working Environment Act.

The employee is not required to document that the condition is in fact censurable. It is sufficient that he/she believes in good faith that this is the case.

Moreover, the employee has a duty to notify in the following circumstances pursuant to Section 2-3 of the Working Environment Act:

- 1) When the employee becomes aware of faults or defects that may involve danger to life or health and they themselves are unable to remedy the fault or defect
- 2) If the employee becomes aware of harassment, including sexual harassment, or discrimination at the workplace
- 3) If the employee suffers injury at work or contracts diseases which the employee believes to result from the work or conditions at the working premise

The duty to notify may also arise from the individual's position or employment contract.

3. WHAT IS REQUIRED OF THE EMPLOYEE/NOTIFICATION

UNIS encourages all employees to start by making use of internal channels for notification as outlined in this point and point 4 below.

Notification may occur orally or in writing (letter, e-mail, etc.) In the case of oral notifications, the Notification group/person responsible for notifications shall write the information down. It is also possible to use UNIS' notification form, cf. point 7.

UNIS encourages all employees to be as precise as possible and, at the very least, include the following information:

- Full name (if the employee is not making an anonymous notification, cf. point 4 below)
- Position (if the employee is not making an anonymous notification, cf. point 4 below)
- The date the notification is submitted
- The date and time of the observation that the notification concerns
- What specifically the employee has observed (heard or seen)
- Where the observation(s) occurred
- The names of others who have observed the conditions
- Whether similar cases have occurred previously

4. WHO SHALL BE NOTIFIED?

4.1 Internal notification

Employees shall normally notify one or more members of the *Notification group*, which consists of the following people:

- Fred S. Hansen, Director of HSE & Infrastructure, fredh@unis.no
- Kjell Ivar Haugnes, Head Engineer IT, kielh@unis.no, Chief safety representative
- Maria Jensen, Associate Professor, maria.jensen@unis.no, ATO representative

If the employee does not wish to raise the matter with one or more members of the Notification group, he/she may notify his/her immediate supervisor, the supervisor's manager, the safety representative, employee representative or a lawyer. If the notification concerns one or more members of the Notification group, the notification may be submitted to the manager(s) of the member(s) concerned.

4.2 External notification

Employees may always notify externally to a public authority, such as the Norwegian Labour Inspection Authority or the national authority for investigation and prosecution of economic and environmental crime.

In some cases it may be necessary to notify the public or the media. However, special rules apply for such notifications. The employee shall as a main rule notify internally before he or she notifies externally to the public or the media. Furthermore, the employee must be in good faith about the content of the notification, and that the notification concerns censurable conditions that is of public interest.

4.3 Anonymous notification

Employees at UNIS have the opportunity to submit an anonymous notification to the Notification group or UNIS' external service, which is the Occupational Health Service at Longyearbyen Hospital:

anne.mette.mork@unn.no

Tel: +47 79 02 42 03

Mobile: +47 41 57 68 79

The recipient of the anonymous notification will then forward the information anonymously to the Notification group or to the manager(s) of the member(s) concerned if the notification relates to one or more members of the group.

Even though employees can submit anonymous notifications, this shall only occur in exceptional circumstances. The reason for this is that anonymous notifications weaken the possibility of investigating the conditions and complicate contradiction (which means the possibility of consulting the notification).

In the case of anonymous notification, the employee shall follow the same procedure outlined in point 3.

5. ADMINISTRATIVE PROCEDURES TO BE FOLLOWED BY THE EMPLOYER/PERSON RESPONSIBLE FOR NOTIFICATIONS

5.1 Follow-up of the notification and the person who notifies

All notifications shall be processed without undue delay and with respect, thoroughness and accountability.

All notifications received must be treated confidentially. This entails the identity of the person who notified will only be made known to those who need to know this to deal with the case.

In accordance with point 4, the recipient of the notification must send the notification or notes of the oral notification to the Notification group/person responsible for notifications, with a copy to the person who notified.

The Notification group/person responsible for notifications must then undertake the investigations necessary to shed as much light as possible on the case. Depending on the specific case and what the notification concerns, the Notification group/person responsible for notifications may also decide that the Head of Department or another suitable person shall participate in the investigations/administrative procedure.

The documentation (interviews/written documents, etc.) to be acquired and/or undertaken shall be determined on a case by case basis by the person(s) conducting the investigations.

When sufficient light has been shed on the case, a decision on further follow-up required and the outcome of the case shall be made within a reasonable timeframe by the Notification group/person responsible for notifications in consultation with the person at the undertaking who is responsible for the condition that notification concerns. Consideration should always be given to whether the individual case provides the basis for implementing general measures at the undertaking.

If the notification concerns one or more members of the Notification group, the investigations shall be undertaken by the manager(s) of the member(s) concerned, who will decide about further follow-up required and the outcome of the case in consultation with the HR adviser.

The decision may be deemed as an individual decision pursuant to the Public Administration Act. If so, the rights and regulations stated in the Act may apply. Furthermore, the rules regarding secrecy and the parties' right to access information in the Public Administration Act may be applicable.

In any cases related to notifications, which typically involve sensitive information, it is especially important to comply with the duty of confidentiality. Moreover, when processing personal data, employees must comply with the provisions of the Personal Data Act.

If the Freedom of Information Act is applicable, the public may have the right to access information in the case. If so, it is important to note the exemptions regarding personal information and the rules related to the Personal Data Act.

5.2 Follow-up of the person(s) the notification concerns

A notification will normally concern one or more people directly or indirectly. As an employee, UNIS has a duty to ensure that there is not an unnecessary burden on employees who are the subject of notifications, regardless of whether the conditions notified are censurable or not and how serious the matter is. The interests of the employee(s) the notification concerns shall be safeguarded by them receiving relevant information and always being given the opportunity to give their side of the story to the employee about possible censurable conditions or accusations against an employee.

5.3 The person(s) that the notification concerns may have a right to access documentation in the case, provided that the Public Administration Act § 18, cf. § 19, is applicable. Feedback to the person who notified (the employee)

The Notification group/the person responsible for notifications shall ensure that the person who has notified receives confirmation that his/her notification has been received. Furthermore, this person shall, within a reasonable timeframe, provide the employee with satisfactory feedback about ongoing enquiries and progress in the case, providing this is appropriate based on the nature of the case. The person who notified has the right of access to who has been made aware of the notification.

If the employee has not received such feedback, he/she shall notify his/her immediate supervisor, the HR adviser or safety representative of the conditions. When a decision relating to the case has been made, the person who notified shall be informed of this decision.

6. PROTECTION AGAINST RETALIATION

An employee who has notified pursuant to Section 2 A-1 of the Working Environment Act and UNIS' procedures must be protected against any unfavourable treatment as a reaction to the notification ("retaliation"), cf. Section 2 A-2 of the Working Environment Act, amongst other sources. UNIS also has a duty to protect employees against retaliation from other parties.

If an employee is met with such retaliation, the employee may claim compensation for economic loss regardless of the employer's negligence, pursuant to the Working Environment Act § 2 A-5 (strict liability).

7. NOTIFICATION FORM

- Form – Notification about possible censurable conditions at UNIS

8. REVISION

<u>Revision number</u>	<u>Valid from</u>	<u>Main changes</u>
01	01.01.2020	Revised pursuant to new changes in the Working Environment Act