



UNIVERSITY *of* LIMERICK

O L L S C O I L L U I M N I G H

**POLICY AND PROCEDURES FOR WORKPLACE DIGNITY
AND RESPECT**

Approved by Governing Authority 6 October 2016

1. POLICY STATEMENT

- 1.1 The University of Limerick is committed to the development and maintenance of a positive working environment, in which all employees have the right to be treated with dignity and respect. In pursuit of this, it is the policy of the University through its human resource management policies and practices, to strive to provide all employees with an environment, which is free from bullying, harassment, sexual harassment, or victimisation of any form.
- 1.2 The University will not tolerate bullying, harassment, sexual harassment, or victimisation and may invoke Statute No. 4, Statute on Employee Disciplinary Matters and Termination of Employment and take appropriate action, up to and including dismissal against those who contravene this policy. Bullying, harassment, and sexual harassment, by non-staff members such as service providers, customers, etc. will not be tolerated and may lead to termination of contracts or suspension of services, or the exclusion from a premises or other sanctions (as appropriate).
- 1.3 The University recognises the importance of providing appropriate training to ensure that this Policy is understood and implemented by all members of staff and will undertake a series of training initiatives aimed at combating bullying, harassment, sexual harassment, and victimisation in the workplace and fostering a dignity and respect culture.
- 1.4 To further support this policy the University will appoint a number of trained “Designated Contact Persons” to provide a voluntary informal resource for confidential support and information to recipients of bullying behaviour and to those against whom a complaint has been made. Designated Contact Persons will be trained to listen, to be supportive and to discuss the various options that are open to the employee concerned. Access to Designated Contact Persons is available to both complainants and respondents. Designated Contact Persons do not get involved in any way in the complaints procedure and are not an advocate for either party.
- 1.5 Any staff member who considers s/he is being bullied, harassed or victimised will be referred to as “the complainant”. The person against whom the allegation is made will be referred to as “the respondent”.
- 1.6 The University will assess the risk of bullying, harassment, sexual harassment, and victimisation in the workplace and preventative measures will be included, where necessary, in the University’s Safety Statement. Furthermore, the University has consulted with the UNITE Trade Union and with the Safety Representatives Committee as regards this Policy and the risk of bullying, harassment, sexual harassment, or victimisation at work and preventative measures.
- 1.7 **Scope**

This Policy applies to bullying, harassment, sexual harassment, or victimisation by management, fellow employees, subordinates, service providers, customers, clients or other business contacts that employees would reasonably come in

contact with in the course of their employment. It also applies beyond the workplace to off site and to work-related social events for example office parties, away days, conferences, training courses, sporting events, etc.

1.8 This Policy will not apply where the respondent or complainant is a student.

1.9 **Effects of Bullying, Harassment, Sexual Harassment, or Victimization**

Bullying, harassment, sexual harassment, and victimisation in the workplace can affect the health, confidence, morale and performance of those affected by it. In addition to being a violation of this Policy, many forms of these inappropriate behaviours are unlawful and unfairly interfere with the opportunity for all persons to have a safe and productive working environment.

1.10 The UNITE Trade Union has played a role as regards the prevention of bullying, harassment, sexual harassment, and victimisation in the workplace through its participation in the development and implementation of this Policy, through its information services and through the collective bargaining process. UNITE also plays a role in providing information, advice and representation to employees who have been bullied, harassed or victimised at work and to employees against whom allegations of bullying, harassment, sexual harassment, or victimisation at work have been made.

2. **DEFINITIONS**

2.1 **Workplace Bullying**

Bullying is defined in various Codes of Practice including the Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work published by the Health and Safety Authority in March 2007. The various Codes have adopted the definition contained in the Report of the Task Force on the Prevention of Workplace Bullying, 2001, which is:

“Repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual’s right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, as a once-off incident, is not considered bullying”.

2.2 **Harassment**

Any form of unwanted conduct related to any of the nine discriminatory grounds being conduct that has the purpose or effect of violating a person’s dignity and creating an intimidating, hostile, degrading or humiliating or offensive environment for the person (Employment Equality Acts).

2.3 Sexual Harassment

Any form of unwanted verbal, non-verbal or physical conduct of a sexual nature being conduct that has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading or humiliating or offensive environment for the person (Employment Equality Acts).

2.4 A single incident may constitute harassment or sexual harassment.

2.5 Unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.

2.6 The nine discriminatory grounds contained in the Employment Equality Acts are gender, civil status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community.

2.7 The intention of the respondent is not a defence to bullying or any form of harassment, sexual harassment, or victimisation.

2.8 Victimisation

The Employment Equality Acts define victimisation as occurring where an employee is dismissed or suffers other adverse treatment as a reaction to:-

- (a) A complaint of discrimination made by the employee;
- (b) Any proceedings by a complainant;
- (c) An employee having represented or otherwise supported a complainant;
- (d) The work of an employee having been compared with that of another employee for any of the purposes of the Employment Equality Acts;
- (e) An employee having been a witness in any proceedings under the Employment Equality Acts or the Equal Status Acts;
- (f) An employee having opposed by lawful means an act which is unlawful under the Employment Equality Acts or the Equal Status Acts;
- (g) An employee having given notice of an intention to take any of the actions mentioned at paragraphs (a)-(f).

3. FORMS OF BULLYING, HARASSMENT, SEXUAL HARASSMENT, OR VICTIMISATION

Bullying or harassment, sexual harassment, or victimisation may be manifested in a variety of forms. The following are **some examples** of workplace bullying, or harassment, sexual harassment, or victimisation, as defined above. This is an illustrative rather than an exhaustive list.

3.1 **Bullying**

When carried out on a repeated basis

- Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property.
- Verbal abuse, shouting, public reprimands, instantaneous rages, intimidation, aggression, menacing behaviour.
- Constant unjustified criticism.
- Unwelcome jokes, remarks, offensive language, threats, insults.
- Exclusionary or isolating behaviour with negative consequences.
- Intrusion – pestering, spying or stalking.
- Oppressive or unreasonable allocation of duties that may include the manipulation of the nature of someone's work (e.g. overloading, setting meaningless tasks, withholding information).
- Unreasonably blocking someone's progress, advancement or access to development opportunities.
- Being treated less favourably than colleagues.
- Blame for things beyond the person's control.
- Humiliation.
- Withholding work-related information.
- Undermining behaviour.
- Excessive monitoring of work.
- Repeatedly manipulating a person's job content and targets.

3.2 Bullying at work does not include reasonable and appropriate supervision, performance management, or discipline arising from the good management of the performance of an employee at work or actions taken which can be justified as regards the safety, health and welfare of employees. For example, an employee whose performance is continuously signalled at a level below required targets may feel threatened and insecure in their work but this in itself may not indicate bullying.

3.3 **Harassment**

- Verbal harassment – jokes, comments, ridicule.
- Written harassment – including faxes, text messages, emails.
- Visual displays – posters, emblems, badges.
- Physical harassment – threatening, pushing.
- Isolation or exclusion.

3.4 **Sexual Harassment**

- Derogatory or degrading insults or comments which are gender related.
- Demands for sexual favours.
- Suggestive sexual remarks, innuendos, lewd comments or gestures.
- Display of pornographic or sexually suggestive pictures, or objects including written material, emails, texts.
- Physical conduct of a sexual nature.

3.4 Victimisation

- Unwarranted discipline or dismissal.
- Less favourable treatment than comparable employees.
- Demotion.
- Exclusion from promotion opportunities.
- Exclusion from normal roles /committee meetings.
- Threatening behaviour.
- Refusal to provide a reference post-employment.

4. RESPONSIBILITIES

4.1 Employees

All employees have a responsibility:-

- to themselves and to their fellow colleagues to positively contribute to an organisation that is free from bullying, harassment, sexual harassment, and victimisation or from conduct likely to contribute to bullying, harassment, sexual harassment, and victimisation and one in which everybody is treated with dignity and respect;
- to read and support the policy and co-operate with the procedures, including any investigation;
- to challenge bullying, harassment, sexual harassment, or victimisation and report any incidents witnessed;
- to maintain confidentiality;
- to be aware of the effects of their own behaviour; and
- not make false, malicious or vexatious complaints.

4.2 Management

Particular responsibility rests with managers, (including Heads of Departments, function or division heads and other employees who have supervisory or managerial responsibilities).

They have a responsibility to:-

- be aware of the University's policy and apply the procedures in a fair and objective manner;
- take steps to positively promote the policy;
- take seriously and deal promptly and appropriately with issues of bullying, harassment, sexual harassment, or victimisation of which they become aware;
- set appropriate standards of behaviour by their own example;
- take all reasonable steps to ensure that the work area for which they are responsible is free from workplace bullying, harassment, sexual harassment, or victimisation;
- be vigilant for signs of bullying, harassment, sexual harassment, and

victimisation at work through observation and employee feedback and take action before a problem escalates;

- deal sensitively with employees involved in a complaint of bullying, harassment, sexual harassment, or victimisation whether as complainant or respondent;
- explain the procedures to be followed if a complaint of bullying, harassment, sexual harassment, or victimisation at work is made;
- ensure that an employee making a complaint is not victimised for doing so; and
- monitor and follow up the situation after a complaint is made so that harassment, sexual harassment, bullying or victimisation at work does not occur or recur.

4.3 Human Resources

It is the responsibility of the Human Resources Division to provide appropriate training to support this Policy and to provide advice to the organisation as appropriate.

4.4 Ultimate responsibility for this Policy rests with the President of the University.

5. COMPLAINT PROCEDURES

5.1 The following procedures will be utilised wherever a complaint of bullying, harassment, sexual harassment, or victimisation is made against a University of Limerick employee by a fellow employee, customer, client, supplier or business contacts of the University.

5.2 All complaints will be dealt with promptly and in a confidential manner, in accordance with the agreed procedures, with due respect for the rights of the parties involved. Furthermore, complaints will be treated with fairness, sensitivity and respect.

5.3 The following support facilities are available to any employee involved in bullying, harassment, sexual harassment, or victimisation:

- Designated Contact Persons
- Employee Support Service
- UNITE Trade Union

A list of Designated Contact Persons and details of the Employee Support Service are available on the HR Website.

5.4 In the event of a complaint being withdrawn by the complainant, the University may investigate the issue in the interests of each party involved and/or having regard to the University's duty of care.

5.5 It is expected that all employees of the University of Limerick should normally pursue issues in relation to bullying, harassment, sexual harassment, or victimisation (where appropriate) under the informal procedure in the first

instance. Furthermore, it is the policy of the University of Limerick that incidents/allegations of bullying, harassment, sexual harassment, or victimisation should, where appropriate and insofar as possible, be dealt with at source by the employee's manager.

5.6 It is recognised that there may be situations where the seriousness of the complaint warrants formal investigation from the outset.

5.7 A person or persons alleged to have bullied, harassed or victimised another will be afforded natural justice and will be treated with fairness, sensitivity and with respect to the need for confidentiality with all parties concerned.

5.8 Timescale

A complaint of bullying, harassment, sexual harassment, or victimisation must be notified in writing to the complainant's manager or to the Human Resources Division pursuant to this Policy within 3 months from the most recent occurrence of the behaviour to which the complaint relates. However, in exceptional circumstances, this period can be extended by the Director, Human Resources or his / her nominee by an additional 3 months. An example of such exceptional circumstances is where the complainant is absent from work due to illness.

6. OPTIONS AVAILABLE TO A COMPLAINANT

6.1 Personal Action by the Complainant

In most cases the most effective and efficient way of dealing with a problem is to speak directly with the person concerned as early as possible. This is most appropriate where the employee simply wants the offensive behaviour to stop and where the bullying, harassment, sexual harassment, or victimisation is not of a more serious nature. In circumstances where the complainant finds it difficult to approach the respondent directly, he or she should seek help and information from a Designated Contact Person or another colleague or trade union representative.

6.2 The complainant should, where possible, immediately make it clear to the respondent that the behaviour is unwelcome, unacceptable and offensive. This may in many instances be sufficient to resolve the problem.

6.3 However, if this approach does not lead to a resolution or if the complainant is unable to raise the issue with the respondent, s/he should report the matter to his/her manager and to the next level of management, where necessary.

6.4 Complainant Informs Management

Where the complainant feels unable to undertake any sort of personal action, or where this approach has not been successful in changing the offending behaviour, s/he can inform the manager/supervisor or Trade Union representative either verbally or in writing.

Once management becomes aware that there is a complaint of bullying, harassment, sexual harassment, or victimisation, action must be taken. There are two procedures for dealing with cases of alleged bullying, harassment, sexual harassment, or victimisation:

- Informal Procedures
- Formal Investigation

7. INFORMAL PROCEDURES

- 7.1 Allegations of bullying, harassment, sexual harassment, or victimisation will normally be dealt with locally in a low-key, non-confrontational manner through the informal procedures, except where, in the view of management, the seriousness of the complaint requires implementation of the formal procedures.
- 7.2 If the complainant's manager is the person against whom the complaint is being made, the complaint may be made to the next level of management.
- 7.3 The informal procedure is designed to try and resolve the matter swiftly and effectively with the minimum amount of distress to all parties. In this regard the following will occur:
- Discussion of the problem between the complainant and his/her line manager;
 - The manager will approach the respondent outlining the nature of the complaint and the impact on the complainant;
 - Through a series of discussions, the manager will work to resolve the issue with the two parties;
 - Notes will be taken by the manager and held for a period of time; and
 - Following resolution, the manager will monitor and review the situation with both parties
- 7.4 If it is not possible to resolve the matter locally then the complainant or his/her manager, having informed the complainant, may bring the matter to the attention of the Director of Human Resources.

The Director of Human Resources or his/her nominee may, where appropriate and with the consent of the parties involved, seek to resolve the matter with the assistance of an objective designated third party.

In certain cases, the Director, HR or his/her nominee may suggest that mediation should take place between the complainant and the person against whom the complaint is made. Mediation is a voluntary, without prejudice and confidential facilitated process that is designed to resolve workplace difficulties.

8. FORMAL COMPLAINT & INVESTIGATION PROCEDURE

8.1 The Formal Complaint & Investigation Procedure will normally be followed: -

- (i) If the complainant's manager and the Human Resources Division consider the complaint to be of sufficient seriousness to warrant the complaint being dealt with under the Formal Procedure in the first instance; or
- (ii) If attempts to resolve the matter pursuant to the Informal Procedure have failed; or
- (iii) If the conduct complained of has continued after the Informal Procedure was followed.

8.2 The complainant should submit a formal complaint in writing to his/her manager (or the next level of management as at 7.2). The complaint should be confined to the specific details of the alleged incidents of bullying, harassment, sexual harassment, or victimisation including their dates and names of witnesses, where possible and be signed and dated.

8.3 Within 5 working days of receipt of the written complaint, the complainant's manager will send it to the Director of Human Resources.

8.4 The respondent will be notified in writing by Human Resources that an allegation of bullying, harassment, sexual harassment, or victimisation has been made against him/her. This notification will be sent to the respondent within 5 working days of the complaint being submitted, or as soon as possible thereafter, in exceptional circumstances. Such exceptional circumstances may be that Human Resources may need to take professional advice with regard to the complaint. The respondent will be given a copy of the complainant's written complaint and will be informed that s/he is required to respond to the allegation in writing, within 10 working days. The complainant will be provided with a copy of this response.

8.5 The complaint and the response will be initially examined by the Director of Human Resources or his/her nominee.

8.6 If deemed appropriate, the Director of Human Resources or his/her nominee may seek to resolve the matter informally with the assistance of a third party if necessary.

8.7 Where a formal investigation is deemed to be warranted by the Director of Human Resources or his/her nominee, then s/he will appoint an Investigation Committee or in certain circumstances, a sole external Investigator and will notify the parties involved of the basis of the investigation and the procedures to be followed within 10 working days.

8.8 While the University will endeavour to comply with the timelines in section 8 of this Policy, these may be extended in exceptional circumstances.

9. INVESTIGATION

- 9.1 The objective of an investigation is to determine whether or not, on the balance of probabilities, the behaviours complained of occurred. Evidence and any witness statements will be relied on for this purpose.
- 9.2 The investigation will be governed by terms of reference, which will specify the scope of the investigation. In general, it is expected that the investigation will be completed within 16 weeks of the appointment of the Investigation Committee/Investigator. Where this is not possible, the parties will be informed of the circumstances and updated as appropriate with new timeframes provided.
- 9.3 The Investigation Committee will comprise of two University employees and an external Chairperson who will have expertise in this area or a sole external Investigator. All reasonable attempts will be made to ensure gender balance in the composition of the Investigation Committee.
- 9.4 Those carrying out the investigation will not be connected in any way with the complaint itself. Should any employee specified as playing a part in these procedures be themselves subject to these procedures, the President will nominate an appropriate person to assume the relevant authority in their place. Should the President be the subject of a complaint, these procedures will be appropriately adapted by the Governing Authority to enable the application of due process.
- 9.5 The advice and assistance of an outside expert will be available to the Investigation Committee/Investigator if deemed necessary by the Committee/Investigator.
- 9.6 The Director of Human Resources may nominate a Human Resources Representative to support and co-ordinate the investigation process.
- 9.7 The Human Resources Representative will have a co-ordinating, advisory and compliance role and will not be involved in the investigation itself.
- 9.8 The investigation will be carried out with due respect to the rights of both the complainant and the respondent and will, in so far as is reasonably practicable, be carried out with the minimum of delay, consistent with fairness and due process to both parties.
- 9.9 The complainant, the respondent and witnesses will be interviewed separately and may be accompanied at all investigative interviews by a friend, colleague or union representative. Copies of statements will be given to and agreed with those who make statements to the Investigation Committee/Investigator.
- 9.10 The Investigation Committee/Investigator may meet with any other appropriate person(s) who can assist with the investigation. The purpose of such meetings is to establish the facts and all discussions will be confidential in so far as is reasonably practicable.

- 9.11 It is a requirement that all parties involved maintain confidentiality. Information is, however, subject to any limits or disclosure requirements imposed by law, by this procedure or by the Freedom of Information Acts and the Data Protection Acts.
- 9.12 Having gathered and considered all the relevant information, the Investigation Committee/Investigator will be required to produce a written, reasoned report setting out their findings. This report will conclude whether or not, on the balance of probabilities, the complaint of bullying, harassment, sexual harassment, or victimisation has been substantiated. Where it is concluded that bullying, harassment, sexual harassment, or victimisation has taken place, the Investigation Committee/Investigator will note the extent of the behaviour.
- 9.13 Where a complaint of bullying is not substantiated, the Investigation Committee/Investigator will stipulate whether or not they have reason to believe that the complaint was false, malicious or vexatious in its intent.
- 9.14 A draft report of the Investigation Committee/Investigator will be sent to both parties for an opportunity to correct any factual errors. Both parties will have 10 working days to respond. The Investigator will give reasonable consideration to any responses provided and will provide in their final report a reasoned commentary on his or her consideration of these aspects.
- 9.15 The final report of the Investigation Committee/Investigator will be sent to the Director of Human Resources who will initiate the appropriate course of action based on the findings of the report.
- 9.16 The Director of Human Resources or his/her nominee will write to both the complainant and the respondent informing them of the outcome of the investigation and the action to be taken. A copy of the Investigator's report will also be provided. The content of the letter and report will be kept confidential by all parties involved.
- 9.17 If at the end of the investigation the complaint is substantiated, the Statute on Employee Disciplinary Matters and Termination of Employment may be invoked and appropriate disciplinary action may be taken.
- 9.18 In some circumstances, disciplinary action may be inappropriate. Alternative measures may include training, counselling and/or a period of monitoring and appraisal. Should these actions prove unsatisfactory, disciplinary action may then be invoked.
- 9.19 The Director of Human Resources or his/her nominee will inform both the complainant and the respondent within a reasonable period of the action to be taken.
- 9.20 The University will provide for an appeals process for either party in respect of the investigation.

- 9.21 If, following the investigation, either party is dissatisfied with the outcome of the investigation, or alleges manifest departure from these procedures, she/he may appeal, in writing, within 10 working days of the date the outcome is issued. This appeal must be submitted to the Director of Human Resources outlining the reason for the appeal. An appeal will not be undertaken unless the grounds, on either the outcome or manifest departure from these procedures are clearly stated in the appeal. The appeal will be conducted by an external independent Appeal Committee / sole external appeal person as determined by the Director of Human Resources or his or her nominee, who has not previously been involved in the investigation of the complaint and will focus only on the aspect of the basis of the appeal cited by the appellant as being the subject of the appeal. The grounds of the appeal and any outcome and methodology employed should be appended to the investigation file.
- 9.22 If, following the investigation, the complaint has been substantiated and disciplinary action imposed, the respondent has the right to appeal against the disciplinary action in the normal way under the appeal procedure provided for in the University's Statute on Employee Disciplinary Matters & Termination of Employment.
- 9.23 The University will do all within its power to protect the parties involved in these procedures from intimidation, victimisation or discrimination resulting from their involvement in the investigation process.
- 9.24 If a complaint is found to be false, malicious or vexatious, the complainant may be the subject of disciplinary action. Such a complaint will generally be treated as misconduct under the Statute No. 4, Statute on Employee Disciplinary Matters and Termination of Employment.
- 9.25 Where a complaint is not upheld by formal investigation, this does not necessarily indicate that the complaint was false, malicious or vexatious. The application of this provision should not in any way deter employees from bringing forward legitimate complaints.
- 9.26 Nothing in this Policy affects employees' statutory or common law rights.
- 9.27 While the University will endeavour to comply with the timelines in section 9 of this Policy, these may be extended in exceptional circumstances.

10. Policy Review

- 10.1 This policy and procedures document will be reviewed as appropriate.