



DOCUMENT CONTROL AND VERSION HISTORY

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Revision History: DIGNITY AND RESPECT POLICY (formerly Anti-Bullying and Harassment)

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DIGNITY AND RESPECT POLICY

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Introduction:

Athlone Institute of Technology is committed to ensuring the dignity of each of its employees and committed to ensuring that the workplace is free from bullying, sexual harassment and harassment

All employees and other persons working in the Institute's business have the right to be treated with dignity and respect

Complaints by employees will be treated with fairness and sensitivity and in as confidential a manner as possible

Sexual harassment, harassment and bullying by the employer, by employees and by non-employees (such as clients, customers and business contacts will not be tolerated and could lead to disciplinary action (in the case of employees) and other sanctions or exclusions from premises (in the case of non-employees)

It is up to the employee to decide what behaviour is unwelcome irrespective of the attitude of others to the matter

Employees who make a complaint or who give evidence in proceedings etc. will not be victimised. Those who make false allegations of sexual harassment, harassment or bullying will be subject to disciplinary action

The Policy extends:

- to bullying, sexual harassment and harassment by co-workers, clients, customers and other business contacts
- beyond the workplace, to conferences and training and work-related social events
- to different treatment of an employee because he/she has rejected or accepted the bullying, sexual harassment or harassment

DEFINITIONS

1. What is bullying?

Workplace Bullying 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 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 to be bullying.

The exercise of legitimate management rights and responsibilities and the exercise of legitimate employee rights and responsibilities falls outside of the definition of workplace bullying.

Bullying manifests itself as various types of behaviour, including behaviour which may:

- Humiliate;
- Intimidate;
- Verbally abuse;
- Victimise;
- Exclude and isolate;
- Intrude through pestering, spying or stalking;
- Imply threats.

The above list is representative only, not exhaustive, and should be used as guidance. These are types of inappropriate behaviour that undermine an individual's rights to dignity at work and can constitute bullying.

Examples of bullying are as follows:

- Pushing, shoving, punching;
- Interference with personal property, and/or equipment;

- Practical jokes, horseplay;
- Personal insults and name calling;
- Public or private humiliation;
- Unfair delegation of duties and responsibilities (this could be used as an alternative to allocating menial jobs);
- Constant put downs, sneering;
- Instantaneous rages, often over trivial matters;
- Offensive jokes;
- Setting deadlines which are regarded as unreasonable;
- “Freezing out” or excluding;
- Intimidation and threats in general.

2. **What is sexual harassment?**

The definition of sexual harassment includes any:

- Act of physical intimacy
- Request for sexual favours
- Other act or conduct including spoken words, gestures or the production, display or circulation of written words, pictures or other material that is **unwelcome** as being **sexually offensive, humiliating or intimidating**.

Many forms of behaviour can constitute sexual harassment. It includes examples like those contained in the following list although it must be emphasised that the list is illustrative rather than exhaustive. A single incident may constitute sexual harassment.

Physical conduct of a sexual nature – This may include unwanted physical contact such as unnecessary touching, patting or pinching or brushing against another employee’s body, assault and coercive sexual intercourse.

Verbal conduct of a sexual nature – This includes unwelcome sexual advances, propositions or pressure for sexual activity, continued suggestions for social activity outside the work place after it has been made clear that such suggestions are unwelcome, unwanted or offensive flirtations, suggestive remarks, innuendos or lewd comments.

Non-verbal conduct of a sexual nature – This may include the display of pornographic or sexually suggestive pictures, objects, written materials, emails, text-messages or faxes. It may also include leering, whistling or making sexually suggestive gestures.

Sex-based conduct – This would include conduct that denigrates or ridicules or is intimidatory or physically abusive of an employee because of his or her sex such as derogatory or degrading abuse or insults which are gender-related.

3. **What is harassment?**

The definition of harassment is similar to that of sexual harassment but without the sexual element. The harassment has to be based on a relevant characteristic of the employee as described in the Employment Equality Act, 1998, namely the employee's

- marital status (i.e. single, married, separated, divorced or widowed),
- family status (responsibility as a parent or as a person in loco parentis to a child under 18 or as the resident primary carer to a person over 18 with a disability),
- sexual orientation (homosexual, heterosexual or bisexual),
- religious belief (or none),
- age,
- disability,
- race,
- colour,

- nationality or ethnic or national origin or membership of the Traveller community.

The Policy extends to situations where the employee does not have the relevant characteristic but the harasser believes that he/she has that characteristic, for example, if the harasser thought the employee was gay and the employee was not.

Harassment is any act or conduct including spoken words, gestures or the production, display or circulation of written words, pictures or other material if the action or conduct is **unwelcome** to the employee and could reasonably be regarded as **offensive, humiliating or intimidating**.

Many forms of behaviour may constitute harassment including:

- **Verbal harassment** – jokes, comments, ridicule or songs
- **Written harassment** – including instant messages, buddy icons, faxes, text messages, emails (including quotes, or attachments) or notices, or any other form of written communication
- **Physical harassment** – jostling, shoving or any form of assault
- **Intimidatory harassment** – gestures, posturing or threatening poses
- **Visual displays** such as posters, emblems or badges
- **Isolation or exclusion from social activities**
- **Pressure to behave in a manner that the employee thinks is inappropriate**, for example being required to dress in a manner unsuited to a person's ethnic or religious background. An employee wearing clothes that display inappropriate or offensive slogans, logos, or offensive images may be asked not to wear such items of clothing in the workplace

4. **Common element**

The definitions of sexual harassment and harassment have several common concepts. There is an objective and subjective element to the different parts of the definition.

a) Unwelcome conduct

The Policy does not prohibit all relations of a sexual or social nature at work. To constitute sexual harassment or harassment the behaviour complained of must firstly be unwelcome. It is up to each employee to decide (a) what behaviour is unwelcome, irrespective of the attitude of others to the matter and (b) from whom, if anybody, such behaviour is welcome or unwelcome, irrespective of the attitudes of others to the matter. The fact that an individual has previously agreed to the behaviour does not stop him/her from deciding that it has now become unwelcome. A person must communicate that behaviour, which was previously tolerated has now become unwelcome. It is the unwanted nature of the conduct, which distinguishes sexual harassment and harassment from friendly behaviour, which is welcome and mutual.

b) Sexually and/or otherwise offensive, humiliating or intimidating

In addition, to constitute sexual harassment or harassment the behaviour must also **be reasonably regarded as offensive, humiliating or intimidating to the employee.**

5. **Intention**

The intention of the perpetrator of the bullying, sexual harassment or harassment is irrelevant. The fact that the perpetrator has no intention of bullying, sexually harassing or harassing the employee is no defence. The effect of the behaviour on the employee is what is important.

The Policy protects employees from sexual harassment and harassment by:

6. The Alleged Perpetrator

- The employer
- Fellow employees

- Clients
 - Customers
 - Other business contacts including any person with whom the employer might reasonably expect the employee to come into contact in the workplace. This may include those who supply or deliver goods/services to the employer, maintenance and other types of professional contractors as well as volunteers.
6. **Non workplace conduct** The scope of the bullying, sexual harassment and harassment provisions extend beyond the workplace for example to conferences and training that occur outside the workplace. The scope also extends to work-related social events.
7. **Different treatment** The protection extends to where the employee is treated differently in the workplace because he/she has rejected or accepted sexual harassment or harassment outside of the workplace and outside the scope of the employment, for example in relation to decisions concerning access to training, promotion or salary.

ALLOCATION OF RESPONSIBILITIES

Confidentiality

All individuals involved in the procedure referred to below must maintain confidentiality on the subject.

1. Management

Management and any individual contributors in positions of authority have a particular responsibility to ensure that bullying, sexual harassment and harassment does not occur and that complaints are addressed speedily. In particular, management must:

- Provide good example by treating all in the workplace with courtesy and respect
- Promote awareness of the Institute's policy and complaints procedures

- Be vigilant for signs of bullying, sexual harassment or harassment and take action before a problem escalates
- Respond sensitively to an employee who makes a complaint under the Policy
- Explain the options and procedures to be followed and the timeframe to apply if a complaint of bullying, sexual harassment or harassment is made
- Ensure that an employee making a complaint is not victimised for doing so
- Monitor and follow up the situation after a complaint is made so that the sexual harassment or harassment does not recur.

2. Employees

Employees are required to contribute to achieving an environment free of bullying, sexual harassment and harassment through co-operating with management's commitment to preventing bullying, sexual harassment and harassment and to ensure that bullying, sexual harassment and harassment by employees constitutes misconduct and may lead to disciplinary action.

Complainant: an employee is responsible for documenting any incident of bullying, sexual harassment or harassment against them. They should make notes and record the dates of any incident and note any witnesses who may have been present

Alleged Wrongdoer: If an allegation of this nature is made against you, you will be made aware of the complaint and have the opportunity to present your account of the issue.

The designated contact person(s) are available to speak with in confidence. If someone speaks to you and indicates that your behaviour is inappropriate, you should consider this seriously. Your immediate response may be to get angry, deny or reject the complaint. Try not to respond in this way. Listen to what is being said.

Where you consider your behaviour has caused offence, unintentionally or otherwise, apologise to the individual and modify your behaviour accordingly. Remember that, where the complaint is being dealt with under the

informal procedure, and matters are resolved, no disciplinary action will follow. Where you consider your behaviour has not caused offence, unintentionally or otherwise, you have the right to challenge the claim.

3. Non Employees

Bullying, sexual harassment and harassment by non-employees such as clients, customers and business contacts will not be tolerated and may lead to termination of contracts or suspension of services, or the exclusion from a premises or the imposition of other sanctions (as appropriate).

4. Communication of Policy

The Institute is committed to an effective communication of the Policy. This effective means of communicating a policy includes websites, emails and information sessions

5. Monitoring

The Institute is committed to monitoring incidents of sexual harassment, harassment and bullying. The only way the Institute can know whether its policy and procedures are working is to keep careful track of all complaints of sexual harassment and harassment and how they are resolved. This monitoring information will be used to evaluate the policy and procedures at regular intervals, with changes made when something is not working well.

6. Training

The Institute is committed to training staff on issues of bullying, sexual harassment and harassment and also to the training of employees likely to be involved in mediation at the informal stage.

An important means of ensuring that bullying, sexual harassment or harassment does not occur is through the provision of training for managers, supervisors and all staff. This will happen for staff at induction or through dignity at work awareness information sessions. Such training will aim to identify the factors, which contribute to a working environment free of bullying, sexual harassment and harassment and to familiarise participants with their responsibilities under the Policy and any problem they are likely to encounter.

This is considered especially important for those members of staff responsible for implementing the policy and processing complaints.

PROCEDURES

1. INFORMAL PROCEDURE

While in no way diminishing the issue or the effects on individuals, an informal approach can often resolve matters. As a general rule therefore, an attempt should be made to address an allegation of bullying, sexual harassment or harassment as informally as possible by means of this informal procedure. The objective of this approach is to resolve the difficulty with the minimum of conflict and stress for the individuals involved.

- a) Any employee who believes that he or she is being bullied, sexually harassed or harassed should explain clearly at the earliest possible opportunity to the alleged perpetrator(s) that the behaviour in question is unacceptable to them. In circumstances where the complainant finds it difficult to approach the alleged perpetrator(s) directly, he or she should seek help and advice, on a strictly confidential basis from a contact person. If an individual is in any doubt as to who the perpetrator is they should not under any circumstances conduct their own investigation. They should immediately advise a contact person. The contact persons are:-

- HR Manager
- Equality Officer
- Any manager in the workplace
- A Trade Union Representative

In this situation the contact person should listen patiently, be supportive and discuss the various options open to the employee concerned. If the contact person is not in a position to assist they should refer the individual to an alternative person

- b) Having consulted with the contact person, the complainant may request the assistance of the contact person in raising the issue with the alleged perpetrator(s). In this situation the approach of the

contact person should be by way of a confidential, non-confrontational discussion with a view to resolving the issue in an informal low-key manner.

- c) A complainant may decide to bypass the informal procedure. Choosing not to use the informal procedure should not reflect negativity on a complainant in the formal procedure. However, on an initial examination under the formal procedure management may recommend that an attempt may be made to resolve the matter under the informal procedure.
- d) He/she should make notes and record the dates of any incident and note any witnesses who may have been present.

2. FORMAL PROCEDURE

If an informal approach is inappropriate or if after the informal stage, the conduct complained of persists, after already informing the alleged perpetrator, the following formal procedures should be invoked:-

a) Written Complaint

The complainant should make a formal complaint in writing to his/her immediate supervisor, or if appropriate, to the Human Resources Manager. The complaint should be confined to precise details of the allegation(s).

b) Rights of the alleged perpetrator

The alleged perpetrator(s) will be notified in writing that an allegation of bullying, sexual harassment or harassment has been made against them. They will be given a copy of the complainant's statement and advised that they will be afforded a fair opportunity within a defined timeframe to respond to the allegation(s).

Initial Examination

The complaint will be subject to an initial examination by a designated member of management, who can be considered impartial, with a view to determining an appropriate course of action. An appropriate course of action at this stage, for example, could be exploring

a mediated solution or seeking to resolve the issue informally. Should either of these approaches be deemed inappropriate or inconclusive, a formal investigation of the complaint will take place with a view to determining the facts and the credibility or otherwise of the allegation(s) and, in appropriate cases, the imposition of a disciplinary sanction.

d) Terms of Reference

The terms of reference will be determined on the basis of the written submission by the complainant and the response of the alleged perpetrator.

e) Investigation

1. Both the complainant and alleged wrongdoer will be informed in writing of the following:

- What the formal procedure entails and the relevant time limits
- That both parties have the right to be accompanied and/or represented, by a friend or colleague
- That the complaint will be in writing and that the alleged wrongdoer will be given full details in writing of the nature of the complaint including written statements and any other documentation or evidence including witness statements, interview notes or records of meetings held with the witnesses
- That the alleged wrongdoer will be given time to consider the documentation and an opportunity to respond
- That confidentiality will be maintained throughout any investigation to the greatest extent consistent with the requirements of a fair investigation
- That a written record will be kept of all meetings and investigations
- That the investigation having considered all of the evidence before it and the representations made to it will produce a written report to both

parties outlining its findings and the reasons for its final decision

- If the complaint is upheld against an employee management will decide on the disciplinary action to be imposed, if appropriate
- If the complaint is upheld against a non-employee the report will recommend appropriate sanctions against the non-employee or his/her employer which could extend where appropriate in the circumstances to
 - Exclusion of the individual from premises
 - Suspension or termination of service
 - Suspension or termination of a supply service or other contract

2. The investigation will be conducted at the discretion of the HR Manager or a member of executive management as appropriate. The investigation panel will normally be comprised of 3 investigators drawn from the following groups:

- A member(s) of management
- A member(s) of the peer group(s)
- One or more third parties.

The investigation will be conducted thoroughly, objectively, with sensitivity, utmost confidentiality, and with due respect for the rights of both the complainant and the alleged perpetrator(s).

The Institute may appoint an external professional investigator(s) if it deems it to be necessary. The parties will be informed if this is the case.

3. The investigator(s) will meet with the complainant and alleged perpetrator(s) and any witnesses or relevant persons on an individual confidential basis with a view to establishing the facts surrounding the allegations(s). Both the complainant and alleged perpetrator(s) may be

accompanied by a friend or work colleague if so desired.

4. Every effort will be made to carry out and complete the investigation as quickly as possible within an agreed timeframe. On completion of the investigation, the investigator(s) will submit a written report to management containing the findings of the investigation.
5. The complaint and the alleged perpetrator(s) will be informed in writing of the findings of the investigation.
6. Both parties should be given the opportunity to comment on the findings before any action is decided upon by management

OUTCOME

Should the outcome of the investigation decide that the complaint is well founded, management will inform the perpetrator of the appropriate course of disciplinary action.

This disciplinary action will be determined by the gravity of the findings and could for example involve counselling and/or monitoring or the imposition of a disciplinary sanction

MALICIOUS COMPLAINTS

Any individual found to have made a malicious allegation of bullying, sexual harassment or harassment, or any individual who supports a malicious claim (e.g. witnesses) will be subject to disciplinary action

STATUTORY RIGHTS

Using the complaints procedure will not affect the complainant's right to make a complaint of sexual harassment or harassment under the Employment Equality Act 1998. Any such complaint must be filed within 6 months of the action complained of, which period may be extended to 12 months if exceptional circumstances prevented the bringing of the complaint within the initial 6 month period.

NO VICTIMISATION

An employee will not be victimised or subject to sanction for making a complaint in good faith, or for giving evidence in proceedings, or by giving notice of intention to do so.

In the course of investigating a complaint, the Institute will make no assumptions about the guilt of the alleged wrongdoer.

Where there is a risk to the Health, Safety & Welfare of the complainant or the alleged perpetrator the Institute will seek to make appropriate arrangements for the provision of support to the relevant employee(s) through the Employee Assistance Programme of the Institute.

RIGHT OF APPEAL

Any staff member who is not satisfied with the outcome of an investigation has a right of appeal to The Workplace Relations Commission (WRC). All information regarding this procedure may be obtained from the Institute if either party wishes or alternatively from the WRC website.