



Environmental
Protection Agency

DIGNITY AT WORK

Issue No:	1
Revision	4
Issue Date	21/12/22



Engaging
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Empowering



ENVIRONMENTAL PROTECTION AGENCY

DIGNITY AT WORK

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INTRODUCTION

The Environmental Protection Agency's Dignity at Work Policy applies to harassment, sexual harassment and bullying which occurs at work and/or in the course of employment. This includes work-associated events such as meetings, training events, conferences and work-related social events, whether on the premises or off-site.

The policy takes account of the Task Force Reports on Bullying in the Workplace as well as the Codes of Practice issued under the Safety, Health and Welfare at Work Acts, 2005 – 2013; the Industrial Relations Acts, 1990 – 2015; and the Equality Acts, 2004 – 2015, specifically:

- ◆ The Industrial Relations Act 1990 (Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work) Order 2020¹; and
- ◆ The Employment Equality Act 1998 (Code of Practice) (Harassment) Order 2012².

¹ [HSA WRC Code of Practice for employers and employees on the prevention and resolution of bullying at work](#)

² [S.I. No. 208 of 2012 - Employment Equality Act 1998 \(Code of Practice\) Harassment Order 2012](#)

COMMUNICATION

The Environmental Protection Agency (EPA) recognises the right of employees to be treated with dignity and respect at work and is committed to seeking to provide a working environment free from bullying, harassment and sexual harassment by staff, consultants, contractors, stakeholders and others in respect of whom employees can reasonably be expected to come into contact with during the course of their employment.

This policy demonstrates the EPA's commitment to implementing and promoting measures to protect the dignity of employees and to encourage respect for others at work.

The policy is communicated through:

- ◆ the employee induction process;
- ◆ publishing of a Dignity at Work Charter which is displayed in a prominent position in all public offices of the EPA and published on the EPA's internet and intranet sites;
- ◆ providing appropriate training and refresher training to Line Managers and all staff, and to those who may have to deal with bullying, sexual harassment or harassment issues.

1. POLICY STATEMENT

- 1.1 The (EPA) is committed to promoting a positive working environment and implementing and promoting measures to protect the dignity of staff and to encourage respect for others at work. This is achieved by creating a work environment free from harassment, sexual harassment and bullying by dealing effectively with any complaints of such conduct, welcoming diversity and promoting employment equality, principles that are reflected in the EPA's core values. The EPA includes respect and support for colleagues as a key organisational value. The combined and consistent effort, standards and values of those employed throughout the EPA contribute significantly to a positive employee relations climate which in turn allows the business to thrive and individuals to prosper. For these reasons, attitudes and behaviours that do not contribute to a positive environment, such as harassment, sexual harassment or bullying, are totally unacceptable and detrimental to everyone. A proven breach of this policy will not be tolerated and will be dealt with through the EPA Disciplinary Policy and Procedures which may lead to disciplinary action up to and including dismissal.
- 1.2 This policy applies to all employees of the EPA and those working at the EPA's workplaces including consultants and contractors. We may need to apply aspects of the policy in different ways to cater for those who are not EPA employees. A complaint in respect of a contracted agency worker may be dealt with by their employer, as they are not an employee of the EPA.
- 1.3 Sexual harassment, harassment and bullying by other non-employees such as contractors, suppliers or members of the public, etc., will also not be tolerated and may lead to termination of contracts or suspension of services, or exclusion from the office, as appropriate.
- 1.4 The EPA encourages employees to report sexual harassment, harassment or

bullying. An employee will not be victimised for reporting if they have experienced sexual harassment / harassment / bullying. Any victimisation of an individual who reports alleged sexual harassment, harassment or bullying, or of a person who assists in an investigation will be treated as a serious disciplinary matter and will be dealt with through the EPA's Disciplinary Policy and Procedures.

- 1.5 All complaints of harassment, sexual harassment and bullying will be treated seriously by the EPA with due regard to the sensitivities of the complainant and to the rights of the person against whom the complaint has been made. The principles of natural justice require that a person who is accused of harassment, sexual harassment or bullying be given a fair opportunity to respond to the allegations made against them.
- 1.6 This policy explains the EPA's procedure for dealing with complaints of sexual harassment, harassment and/or bullying. When an investigation is necessary, it will be completed as quickly as possible. All complaints will be taken seriously and investigated as promptly and as confidentially as possible with due regard to the rights of those involved. All parties involved will be treated with respect.
- 1.7 The timeframes in this procedure for the EPA to process complaints of sexual harassment, harassment and/or bullying may need to be extended in the event of an unforeseen delay. In addition, each situation will be unique and therefore may require different timescales for the completion of the process.
- 1.8 While it is extremely important that at all stages of addressing a complaint made under this policy (whether by way of informal/formal procedure) confidentiality is maintained to the extent possible, it is not possible to guarantee confidentiality and/or anonymity to anyone e.g. where the complaint may be subject to criminal investigations by An Garda Síochána.

Any employee who is involved in the processing of a complaint whether as the person making the complaint, the person complained of, Investigator or witness must keep all details relating to the complaint confidential to the extent possible and consistent with due process. A failure to adhere to this requirement may be treated as a disciplinary matter under the EPA's Disciplinary Policy and Procedures.

- 1.9 Information about a complaint by or about an employee may be placed on the employee's personnel file, along with a record of the outcome and of any notes or other documents compiled during the process. These will be retained and processed in accordance with the EPA's Data Protection Policy.
- 1.10 It is accepted that individuals interpret behaviour differently and that what is acceptable to one person may be unacceptable to another. However, it is up to each employee to decide what behaviours are unwelcome and unacceptable to them, irrespective of the attitudes of others to the matter. If the employee believes they are the recipient of behaviour which is unwelcome and unacceptable to them they may make a complaint in good faith.
- 1.11** While not every allegation can be resolved to the satisfaction of both parties, wherever it is possible and appropriate, the EPA is committed to resolving any allegations of harassment, sexual harassment and bullying that arise through the use of informal/formal procedures as appropriate with a view to finding an acceptable and appropriate solution between the parties concerned.

Where there is a concern that allegations may constitute a criminal offence the EPA may refer the matter to An Garda Síochána.

- 1.12 An employee found to be engaging in any sexual harassment/harassment/bullying on EPA premises or anywhere else while representing the EPA on official business or function will be subject to

disciplinary action at an appropriate stage of the EPA's Disciplinary Policy and Procedures depending on the seriousness of the offence.

- 1.13 The EPA will treat all allegations seriously and employees are expected to do likewise. Vexatious complaints are damaging to employees and to the organisation and will be dealt with as a disciplinary matter.
- 1.14 This policy does not form part of any employee's contract of employment and we may amend it from time to time. This policy may be updated to reflect the EPA's experiences in implementing it, relevant changes in the workplace and any external factors that are relevant.
- 1.15 Reasonable accommodation will be made where necessary to facilitate and assist employees with a disability to access this policy. If an employee has difficulty at any stage of this policy because of a disability, the employee should raise this with a member of Human Resources as soon as possible.
- 1.16 If an employee has difficulty at any stage of this policy because English is not the employee's first language, the employee should raise this with a member of Human Resources as soon as possible.
- 1.17 Any meeting including an investigation meeting under this policy may be carried out remotely, at the EPA's discretion.
- 1.18 The risk of bullying has been assessed and preventive measures included, where necessary, in the EPA's Safety Statement. An Operational Control Procedure (OCP 32) on the prevention of bullying has been developed and included in the Safety Management System, following consultation with employees as regards the risk of bullying at work and preventive measures.

2 DEFINITION OF SEXUAL HARASSMENT, HARASSMENT AND BULLYING

2.1 Harassment

2.1.1 Harassment is any form of unwanted conduct related to gender, race, nationality or ethnic origin, disability, religious belief, age, sexual orientation, marital or civil status or membership of the Traveller Community, which has the purpose or effect of:

- ▲ violating a person's dignity; and
- ▲ creating an intimidating, hostile, degrading, humiliating or offensive environment for that person.

A single incident may constitute harassment or sexual harassment.

2.1.2 Harassment may include the following:

- ▲ Verbal harassment - Jokes, comments, ridicule or songs.
- ▲ Written harassment - Text messages, e-mails, notices.
- ▲ Physical harassment - Jostling, shoving or any other form of physical assault.
- ▲ Intimidatory harassment – Gestures, posturing or threatening posts.
- ▲ Visual displays such as posters or badges.
- ▲ Excessive monitoring of work.
- ▲ Isolation or exclusion from workplace social activities.
- ▲ Unreasonably changing a person's job content or targets.
- ▲ 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.

This list is neither exhaustive nor prescriptive.

2.2 **Sexual Harassment**

2.2.1 Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature which has the purpose or effect of violating a

person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment. Examples of such conduct include:

- ▲ 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 workplace 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 includes conduct that denigrates or ridicules or is intimidating or abusive of an employee because of their sex, such as derogatory or degrading abuse or insults which are gender-related.

The definition of sexual harassment includes same-sex harassment.

It is essential to note that it is not the intention of the person carrying out the behaviour complained of that determines whether harassment or sexual harassment has occurred, but whether the behaviour has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. It is the unwanted nature of the conduct which distinguishes harassment from behaviour which is both welcome and mutual.

2.3 Bullying

2.3.1 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 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 to be bullying.

Bullying is an on-going series of accumulation of seriously negative targeted behaviours against a person or persons to undermine their esteem and standing in a harmful, sustained way. Bullying behaviour is offensive, on-going, targeted and outside any reasonable 'norm'. A pattern and trend are involved so that a reasonable person would regard such behaviour as clearly wrong, undermining and humiliating. It involves repeated incidents or a pattern of behaviour that is usually intended to intimidate, offend, degrade or humiliate a particular person or group of people - but the intention is not important in the identification process.

Bullying can be perpetrated against an individual or a group of employees and can take many forms, both obvious and more subtle or insidious. Bullying may include, by way of example:

- ▲ Exclusion with negative consequences.
- ▲ Verbal abuse/insults.
- ▲ Being treated less favourably than colleagues in similar roles.
- ▲ Belittling a person's opinion.
- ▲ Disseminating malicious rumours, gossip or innuendo.
- ▲ Socially excluding or isolating a person within the work sphere.
- ▲ Intrusion - pestering, spying or stalking.

- ▲ Intimidation/aggressive interactions.
- ▲ Excessive monitoring of work.
- ▲ Withholding information necessary for proper performance of a person's job.
- ▲ Repeatedly manipulating a person's job content and targets.
- ▲ Blaming a person for things beyond their control.
- ▲ Use of aggressive and obscene language.
- ▲ Other menacing behaviour.

This list is neither exhaustive nor prescriptive.

2.3.2 Objective criticism and corrections that are intended to provide constructive feedback to an employee are not usually considered bullying, but rather are intended to assist the employee with their work. Consequently, all managers are required to monitor the performance of their employees on an ongoing basis and formally through PMDS. For this to work effectively, it is the duty of managers to be open with staff about performance, attendance and general conduct. Effective management may require critical comments to individuals where performance has not met the required standard. Bullying does not arise where critical comments are made in an honest and constructive manner based on evidence and are imparted in a reasonable way.

The following behaviour does not constitute bullying:

- ▲ Expressing differences of opinion strongly.
- ▲ Offering constructive feedback, guidance, or advice about work-related behaviour which is not of itself welcome.
- ▲ Ordinary performance management.

- ▲ Reasonable corrective action taken by an employer or supervisor relating to the management and direction of employees (for example managing a worker's performance, taking reasonable disciplinary actions, or assigning work).
- ▲ Workplace conflict where people disagree or disregard the others' point of view.
- ▲ An isolated incident.

This list is neither exhaustive nor prescriptive.

2.4 Victimisation

Victimisation is any adverse treatment which occurs as a reaction to a person asserting their rights under this Policy or their relevant statutory rights; making a complaint in good faith; bringing a statutory complaint; supporting a complainant; giving evidence in an investigation or statutory process, or giving notice of an intention to take any of these actions.

Any complaint of victimisation will be dealt with seriously and promptly.

Victimisation may result in disciplinary action up to and including dismissal.

3 RESPONSIBILITIES

3.1 Employee Responsibilities

It is the responsibility of all employees to act in a responsible and professional manner with each other. All employees are obliged to:

- ▲ Treat colleagues with respect and dignity
- ▲ Create and maintain an environment free from bullying, harassment, sexual harassment or victimisation
- ▲ Read and support this policy and procedures
- ▲ Co-operate with any investigation, formal or informal

- ▲ Co-operate with management strategies to eliminate bullying, sexual harassment and harassment
- ▲ Challenge bullying and harassment by reporting any incidents witnessed
- ▲ Respect confidentiality when required
- ▲ Be aware of the effects of their own behaviour
- ▲ Not make vexatious allegations

3.2 Management Responsibilities

In addition to the above responsibilities, management and others in positions of authority have a particular responsibility to seek to prevent bullying, harassment and sexual harassment and ensure that correct standards of behaviour are maintained in the workplace. To this end managers and others in positions of authority will be expected to:

- ▲ Provide good example by treating all in the workplace with respect and dignity
- ▲ Adopt a pro-active approach to supporting and implementing this policy
- ▲ Make all employees aware of this policy and support the procedures
- ▲ Be vigilant for signs of bullying, sexual harassment and harassment and seek to take action before a problem escalates
- ▲ Deal promptly and appropriately with issues of bullying, sexual harassment or harassment of which they become aware
- ▲ Apply the procedures set out in the policy in a fair and objective manner
- ▲ Reinforce the need for all parties to respect confidentiality
- ▲ Enable complainants to raise issues without fear of repercussions or victimisation.

4 WHAT AN EMPLOYEE SHOULD DO IF THEY ARE SUBJECTED TO SEXUAL HARASSMENT, HARASSMENT OR BULLYING

4.1 An employee who considers that they have been subject to harassment, sexual harassment or bullying should consider:

- ▲ Keeping a record of all incidents – such as where, when and what took place, any witnesses and copies of any written material.
- ▲ Writing down their feelings at the time and what their response was.
- ▲ Seek information and support from any of the below sources:
 - Support Contact Person – the employee concerned may wish to speak to a Contact Person whose function is to provide confidential information and support to the employee as outlined in [Appendix 1](#). Details of the Support Contact Persons are provided in [Appendix 2](#).
 - The Employee Assistance Service. Details of the role of the Employee Assistance Programme are provided in [Appendix 3](#).
 - Trade Union representative.
 - Line Manager or Human Resources who will provide the employee with a copy of the policy and outline the routes available.

4.2 Timescale for referring a matter under this procedure

A complaint of bullying or sexual harassment/harassment must be brought under this policy within 6 months from the date of the most recent occurrence of the behaviour to which the complaint relates. However, if reasonable cause can be shown for the failure to make the complaint in time. For example, illness or absence from work, the Programme Manager of Human Resources, may extend the period to a period not exceeding twelve months. In exceptional circumstances a further extension for the referral of a complaint beyond the 12 month period may be granted.

5 PROCEDURE FOR DEALING WITH A COMPLAINT OF HARASSMENT, SEXUAL HARASSMENT OR BULLYING

5.1 Informal Procedure

- 5.1.1 In most cases the most effective and efficient way of dealing with a problem or potential problem is for the offended party to speak directly with the person concerned as early as possible. It is important to explain to the person that their behaviour is inappropriate, unwelcome or offensive. The person should be asked to stop the behaviour. While in no way diminishing the issue or effects on individuals, an informal approach can often resolve matters.
- 5.1.2 Where the employee feels unable to approach the person directly, or where this approach has not been successful in changing the alleged offending behaviour, they can inform the Line Manager, either verbally or in writing.
- 5.1.3 If the Line Manager is the person against whom the complaint is being made, or it is not appropriate to refer the matter to the Line Manager, the complainant may report the matter to their Programme Manager.
- 5.1.4 It is important to note that once the employee's line management becomes aware either, verbally or in writing that there is an issue of bullying or harassment, the EPA must consider what action, if any, either informal or formal may be taken.**
- 5.1.5 The approach of the Line Manager should be by way of a confidential, non-confrontational discussion with the person concerned, with a view to resolving the issue in an informal low-key manner. Alternatively, the Line Manager may decide that mediation might be an appropriate way of resolving the matter. Mediation is a voluntary and confidential process for resolving disputes where the parties agree to attempt to resolve the issues with the aid of a mediator. Details of the mediation process are set out in

Appendix 4.

5.1.6 If an employee chooses the informal route, the Line Manager will normally try to ensure that the employee's wishes are complied with in terms of approach to resolution of the issue and that the matter will go no further while the employee wishes to continue to try to resolve the matter informally.

5.2 Secondary Informal process

5.2.1 If the Line Manager or the EPA considers the welfare, health or safety of others to be at risk or that there are overriding reasons why they should do so, the Line Manager may have to approach the person in respect of whom the employee has raised the issue and/or conduct an investigation. If the informal process is unsuccessful, the EPA may nominate a separate person who has had appropriate training and experience and who is familiar with the procedures involved to deal with the complaint. The complaint may be verbal or written. If verbal, a written note of what is complained of should be taken by the nominated person and a copy given to the complainant. The nominated person managing the complaint, should then establish the facts, the context and then the next course of action in dealing with the matter under the informal procedure. If the complaint concerns alleged harassment, sexual harassment or bullying, as defined and includes concrete examples of inappropriate behaviour, the person complained against should be presented with the complaint and their response established. Thereafter a method should be agreed to progress the issue to resolution so that both parties can return to a positive working environment.

5.2.2 If the behaviour complained of does not concern alleged harassment, sexual harassment or bullying, as defined, an alternative approach to resolving the matter should be put in place and a rationale recorded. If there are no concrete examples given, it must be deemed that there is no complaint to be

answered by the person complained of as they have no recourse to repudiating an accusation that doesn't give any specifics.

- 5.2.3 An employee may decide, for whatever reason, to by-pass the informal procedure. Choosing not to use the informal procedure will not reflect negatively on an employee in the formal procedure. It is recognised that it may not always be practical or appropriate to use the informal procedure particularly where the bullying or harassment is serious or where the people involved are at different levels in the organisation. In such instances the staff should use the formal mechanism set out in Section 5.3 below.

5.3 Formal Procedure

- 5.3.1 If an informal approach is inappropriate or if informal attempts at resolution have been unsatisfactory, the following formal procedure may be invoked.
- 5.3.2 If the employee (hereafter referred to as the "complainant") has not already done so, they must set out the complaint in writing detailing the full nature of the allegation and provide this to any member of management or Human Resources when making a formal complaint under this Procedure.
- 5.3.3 The complaint will be referred to the Programme Manager of Human Resources, who may nominate another Programme Manager or third party.
- 5.3.4 The person against whom the complaint is made will be notified that a complaint has been made against them. They will be given a copy of the complainant's complaint and advised that they shall be afforded a fair opportunity to respond to the allegation(s) and assured of the presumption of innocence. They should be advised of the procedures, the time frame involved and the possible outcomes.
- 5.3.5 The complaint will be subject to an initial examination by the designated Programme Manager, who can be considered impartial, with a view to determining an appropriate course of action.

5.3.6 An appropriate course of action at this stage could be exploring a mediated solution or recommending that informal resolution should be attempted. Should either of these approaches be deemed inappropriate or do not resolve the complaint, an investigation of the complaint may take place.

5.4 Investigation

5.4.1 An investigation will be initiated no later than 20 working days from the date of receipt of the written complaint. Where a process of mediation has taken place without resolution, the time scale will run from the date of the letter from the mediator indicating that mediation has failed.

5.4.2 The investigation may be conducted by either a nominated member of management or, if deemed appropriate by the EPA, a third party. The investigator(s) may decide to have an assistant during the conducting of their investigation. Such an assistant will have had no other involvement in the complaint.

5.4.3 The purpose of the investigation is to decide based on the facts, evidence and the credibility or otherwise of a complaint of harassment, sexual harassment or bullying whether the behaviour complained about may, on the balance of probabilities, have occurred.

5.4.4 The investigation will be carried out in accordance with the principles of natural justice and will be thorough, impartial and objective. It will be carried out in a sensitive manner and with due respect for the rights of both the complainant and the person complained of.

5.4.5 Where possible, all parties to the investigation will continue to work normally during the course of the investigation. However, it may be appropriate to consider and put in place protective measures, pending the outcome of the process. Such measures are not indicative of any pre-judgement.

5.4.6 During the investigation all parties will be required to maintain

confidentiality. Any breach of this confidentiality (other than to a person supporting them in the conduct of the case) may be dealt with under the EPA's Disciplinary Policy and Procedure.

- 5.4.7 All information disclosed to the Investigator will be taken to be on the record and will be included in the Investigator's written notes recording the interview.
- 5.4.8 Upon completing the investigation, if a complaint is upheld and disciplinary action is taken and it emerges that the findings may relate to a criminal offence on the part of the employee against whom the complaint has been upheld, the Programme Manager of Human Resources or other nominated Programme Manager may then decide to refer the matter to An Garda Síochána (for example, indecent assault or assault).

5.5 Interviews

- 5.5.1 The Investigator(s) will meet with the complainant and person against whom the complaint is made and any witnesses or relevant persons on an individual, confidential basis with a view to establishing the facts surrounding the allegation(s).
- 5.5.2 The complainant and the person against whom the complaint is made may provide the names of nominated witnesses, but it is for the Investigator to determine which (if any) of the nominated witnesses the Investigator believes it is necessary to meet. The Investigator may decide to interview other employees or other individuals whom they believe could assist in the investigation.
- 5.5.3 The complainant and the person complained of are entitled to be accompanied to these meetings by a work colleague or trade union representative who is not representing another party involved in the matter.
- 5.5.4 It will not be appropriate for an accompanying person to be a potential

witness who may also be interviewed or making a statement during the course of the investigation.

5.5.5 Further meetings with some/any of those involved may be necessary as the Investigator(s) decides.

5.5.6 Witnesses will be asked to respect the privacy of the parties involved. Employees will be directed, and non-employees will be asked to refrain from discussing the allegations and or the investigation with colleagues or persons outside the EPA.

5.6 Withdrawal of a complaint / failure of any party to cooperate with the investigation

5.6.1 If a complainant wishes to withdraw a complaint or refuses to cooperate in the investigation, then the Investigator(s) may decide to do one of the following:

- a) If the matters complained of are of a serious nature, then the Investigator has the discretion to decide that the investigation will have to continue, with or without the complainant's cooperation from that point forward, based on all the evidence available and anything gathered up to that point from the complainant (e.g. written complaint, part of an interview, etc.), and based on interviews with the other parties. All parties will be informed accordingly, and an investigation report with conclusions will still be prepared.
- b) Otherwise, the Investigator will seek the permission of the person complained of to cease the investigation – this is because the EPA must ensure that the rights of the person complained of, as well as those of the complainant, are fully met, in accordance with the principles of natural justice. These principles require that the accused be given an opportunity to respond to the case against them, and be given the opportunity to defend their name and reputation. They may still wish for the complaint to be investigated, regardless of the complainant's change of mind, in which case the investigation will proceed with or without the complainant's cooperation from that point forward, based on all the evidence available and anything gathered up to that point from the complainant (e.g. written complaint, part of an interview etc.). All parties will be informed accordingly, and an investigation report with conclusions will still be prepared.
- c) If the complainant wishes to withdraw from the investigation and try

mediation instead, this may be an option only if the person complained of agrees to mediation. If the person complained of will not agree to this change of approach, the investigation will continue and an investigation report with conclusions will be prepared.

- d) If the Investigator(s) feels it will not have any negative impact on the organisation, or on the principal parties to the complaint, for the complaint to be withdrawn, and if all the principal parties to the investigation (complainant/s, person/s complained of) agree to the complaint being withdrawn, before it is fully investigated, then the investigation will cease, and all materials gathered thus far will be removed from the relevant HR files.

5.6.2 Should the Investigator(s) or any person become aware that an attempt has been made to persuade any party or witness to withdraw or change their evidence, the matter will be reported immediately to the Programme Manager of Human Resources or other nominated Programme Manager. Any such interference or victimisation will be regarded as a serious breach of discipline. Any attempt at interference or victimisation in the case of harassment or sexual harassment may also constitute an offence under the Employment Equality Acts 1998 to 2015.

5.6.3 Should the person complained of, or any witnesses to the complaint, refuse to cooperate with the investigation, the investigation will nonetheless proceed, based on the written complaint received and on the investigation interview with the complainant, and on all other evidence available. All parties will be informed accordingly, and an investigation report with conclusions will still be prepared.

5.7 Completion of the investigation

5.7.1 Every effort will be made to complete an investigation within three months from the date of appointment of the Investigator(s). Where this deadline will

not be met the Investigator(s) will notify both parties and the Programme Manager of Human Resources, or other nominated Programme Manager.

5.7.2 The Investigator(s) may decide, that, in the absence of cooperation from any one of the parties, to complete the investigation and come to a conclusion based on the evidence available.

5.7.3 On completion of their investigation, the Investigator(s) must reach one of the following conclusions:

- a) that, based on the evidence, on the balance of probability, the complaint is upheld for reasons which are stated,
or
- b) that, based on the evidence, on the balance of probability, the complaint is not upheld for reasons which are stated;

The Investigator may invite the parties concerned to participate in mediation, if that option has not already been exhausted, e.g. if the complainant opted to proceed directly to a formal complaint.

5.7.4 The Investigator(s) will submit a report to the Programme Manager of Human Resources or other nominated Programme Manager within 21 working days of completion of all the interviews. This report shall include the conclusions of the Investigator in accordance with paragraph 5.6.3. On receipt of the report the Programme Manager of Human Resources or other nominated Programme Manager shall satisfy themselves that all appropriate steps have been taken to carry out a thorough and impartial investigation.

5.7.5 Both parties will be given a copy of the Investigator's report within 15 working days of receipt of the report by the Programme Manager of Human Resources or other nominated Programme Manager. Both parties will be given an opportunity to comment before any action is decided by the Programme Manager of Human Resources or other nominated Programme

Manager. These comments should be given to the Programme Manager of Human Resources or other nominated Programme Manager within 10 working days of receipt.

- 5.7.6 The Programme Manager of Human Resource or other nominated Programme Manager shall confirm whether, having regard to the findings in the report of the Investigator(s) and the comments of the parties, if any, the complaint is upheld. The Programme Manager of Human Resources or other nominated Programme Manager shall inform the complainant and the person against whom the complaint was made, of the outcome of the investigation in writing, within 10 working days of receipt of the comments from the parties.

5.8 Action where the complaint is upheld

5.8.1 If the complaint is upheld the Programme Manager of Human Resources, or other nominated Programme Manager, having regard to the nature of the complaint, the report of the investigator and any other appropriate information, shall decide whether the matter should be pursued as a disciplinary issue under the EPA's Disciplinary Policy and Procedure. The Programme Manager of Human Resources, or other nominated Programme Manager shall inform the party concerned of that decision in writing within 10 working days of notification to the parties of the outcome of the investigation.

5.8.2 If the Programme Manager of Human Resources, or other nominated Programme Manager decides that the matter should not be pursued as a disciplinary issue, they shall decide (in consultation with Human Resources) what further action in relation to the complaint is warranted, this may include referring the person complained of to counselling or other appropriate interventions or support services in respect of their behaviour. They will also keep the situation under review for a period of time agreed with the parties to the complaint.

5.8.3 The Programme Manager of Human Resources, or other nominated Programme Manager will inform the complainant of the action, if any, which is to be taken.

5.9 Action where the complaint is not upheld

- 5.9.1 If the complaint is not upheld the Programme Manager of Human Resources or other nominated Programme Manager will advise both parties, in writing, of the outcome and advise that the matter is closed.
- 5.9.2 Where the complaint was made in good faith but not upheld, this will be treated sympathetically. It will be considered a disciplinary matter to victimise or retaliate against an employee for bringing a complaint of bullying; harassment or sexual harassment in good faith.
- 5.9.3 Where, on the other hand, it is found that a complaint was not made in good faith, this may give rise to disciplinary action in accordance with the EPA's Disciplinary Policy and Procedures and may give rise to a sanction up to and including dismissal. In such case, there will be no requirement for a disciplinary investigation and the disciplinary hearing will be limited to deciding upon the sanction (if any) to be imposed.

6 APPEALS PROCEDURE

- 6.1 Where either party feels that they have not been fairly treated in the conduct or outcome of the investigation there shall be the right of appeal.
- 6.2 An application for an appeal must be made, in writing, to the Director of the Office of Communications and Corporate Services (OCCS), no later than 10 working days from the date of the letter informing parties of the outcome of the investigation and outlining the reasons for the appeal.
- 6.3 The party requesting the appeal may ask their Union representative or colleague to make an application on their behalf.
- 6.4 An appeal cannot be processed unless the grounds are submitted with the appeal.
- 6.5 The Programme Manager of Human Resources, or other nominated

Programme Manager will notify the other party to the complaint that an application for an appeal has been made and of the grounds on which it was made as soon as possible after the application is made.

- 6.6 The Director (OCCS), or an appointee, will carry out a review of the investigation and the subsequent outcome and will determine whether the appeal is to be upheld or rejected. The Director (OCCS) will inform both parties of the decision within 15 days or as soon as possible following the appeal decision.

Appendix 1: Role of the Contact Person

The role of the Contact Person is to provide information and support in a confidential, non-judgemental and off the record discussion to any employee who feels they have been subjected to harassment, sexual harassment or bullying, or against whom a complaint has been made. The contact person only provides information and support in relation to complaints under the EPA's Dignity at Work Policy & Procedures and not in relation to any other forms of workplace grievance.

The aim of the contact person is to give information to help employees to clarify what they are experiencing and empower them to decide their own course of action. The contact person could, for example, provide the employee with a copy of the policy, outline the routes available and explain the roles of the people involved.

The contact person may not act as a representative or advocate on behalf of the person they are supporting nor direct someone as to the best course of action to take.

A contact person cannot support both parties on a particular issue and if approached by both should only support the person who has first approached them and refer the second person to another contact person. The contact person's role is in relation to information and support only and they have no other role in relation to any procedures under the policy.

The contact person will treat the discussion as confidential and will not be requested to disclose any matters to a third party. Where a potential danger to an employee arises such as an assault or risk of suicide, Human Resources should be contacted so that appropriate professional advice or intervention can be sought.

The Line Manager of the contact person will be made aware of what the role of the contact person entails to ensure that they fully support and facilitate the requirements of the role.

Meetings between employees seeking support and the contact persons will take place only during office hours, in a suitable private location having notified the



contact person's Line Manager. The meetings will normally take no more than one hour and 2 – 3 meetings should be sufficient.

No home or mobile telephone numbers should be exchanged.

Appendix 2: Contact Persons:

Location	Name	Office	Ext. No.
Wexford	David Smith	OEE	7343
Dublin	Carol O’Sullivan	OEE	4104
	Patrick Kenny	ORM	4185
Cork	Ann Marie Donlon	OES	6804
Castlebar	Jason Barry	ORM	8451
Monaghan	Regina McGinn	ORM	7614
Kilkenny	Jean Smith	ORM	6702

Appendix 3: Employee Assistance Programme

The EPA currently avails of the services of an external company to provide employee assistance and support to employees in need of such support.

An employee who is subjected to harassment, sexual harassment or bullying may wish to seek personal support and assistance. Similarly, an employee against whom such a complaint has been made may need personal support and assistance. All employees, for example witnesses, managers and colleagues affected by such circumstances may also wish to avail of the assistance and support available from the [Employee Assistance Programme](#) (EAP).

The EAP is a service designed to provide confidential assistance and a wide range of supports (including counselling) to staff in relation to personal or work-related problems.

The EAP is a neutral support service and will not be involved in the adjudication of cases. The EAP is available to support staff irrespective of whether the person is the subject of harassment, sexual harassment or bullying or is the subject of a complaint or is involved as a witness. Any discussion between an employee and an EAP officer is confidential.

The EAP is available to provide support and assistance to staff in re-establishing positive working relationships following the conclusion of a case.

Appendix 4: The Mediation Process

Mediation is a voluntary process it can only be undertaken if both parties agree and it can end at any stage if either party decides to do so. The following principles apply to mediation:

- ◆ Consent to mediation is sought independently from both parties.
- ◆ If both parties consent, the mediator will convene a meeting as soon as practicable after the decision to appoint a mediator is made.
- ◆ The mediator is impartial and does not take sides with either party. The role of the mediator is to assist the parties to negotiate their own agreement and not in making decisions for or imposing solutions on them.
- ◆ Mediation is voluntary, either party may withdraw their initial consent at any stage and mediation will be terminated immediately. The complainant may request the resumption or initiation of an investigation under this policy at any stage.
- ◆ It is the responsibility of the parties to identify, if necessary, with the help of the mediator, the issues on which they wish to negotiate. The parties are responsible for the terms of the agreement, which they reach.
- ◆ Mediation is conducted in private and the terms of the agreement are private. No details of what occurs within the process will be formally recorded or placed on personnel files. Information disclosed at mediation will not be made available to an investigator if an investigation is subsequently carried out into the complaints which formed the subject of the mediation.
- ◆ Sessions will normally be held jointly but in some instances, it may help the process to have separate confidential meetings with the individual parties. All parties will agree this process in advance.

Once these principles have been established the mediator will arrange a mutually



convenient meeting between the parties as soon as it practicable after the complaint has been referred to them.