

# Dignity at work policy.





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# Dignity at Work Charter and Policy Statement

## Dignity at Work Charter

“We at An Post commit ourselves to working together to maintain a positive workplace environment that encourages and supports the right to dignity at work, preventing and eliminating incidents of bullying, harassment and sexual harassment. We champion best practice and a safe, harmonious work place grounded on a culture of mutual respect. All who work here; customers, clients and business contacts, are expected to respect the rights of each individual in their working life. All will be treated equally and respected for their individuality and diversity.

All staff, customers, clients and business contacts should be aware that An Post considers bullying, harassment or sexual harassment to be unacceptable and in breach of organisational policy.

All of our health, safety, wellbeing, diversity and inclusion policies and procedures will underpin the principles and objectives of this Dignity at Work Charter and Policy Statement. All individuals, whether directly employed or contracted by us, have a duty and a responsibility to uphold this Dignity at Work Charter and Policy.

Supervisors, managers and trade union representatives where applicable in the workplace have a specific responsibility to promote its provisions.”

Nothing in this Charter and Policy Statement overrules a person’s legal and statutory rights.

## Statement of Policy

All employees of An Post have a right to be treated with dignity and respect at work. An Post is committed, in so far as is reasonably practicable, to ensuring that our employees work in a positive and safe working environment in an atmosphere of respect, collaboration, openness, safety and equality which is free from all forms of bullying or harassment.

All Employees also have a responsibility to create and contribute to the maintenance of a work environment free from bullying and to refrain from conduct likely to contribute to bullying or harassment.

Bullying, harassment or sexual harassment in any form is not acceptable to An Post and will not be tolerated, whether it is carried out by a member of staff, a customer, a client or a business contact of An Post. Human Resource policies and management practices will strive to prevent bullying, harassment and sexual harassment at work.

All complaints will be taken seriously and will be followed through to resolution. Complaints by employees will be treated with sensitivity and in as confidential a manner as possible.

Any Employee who has been found to be in breach of this policy will be subject to the rigours of the Company’s disciplinary procedures up to, and including, dismissal.

A complainant’s rights are protected under this policy and they will not be penalised for making a complaint in good faith. If, however, it is found that the complaint was brought maliciously, it will be treated as misconduct under the Company’s disciplinary procedures.

Bullying, harassment or sexual harassment of staff by non-employees such as clients, customers and other business contacts will likewise not be tolerated. Where a complaint is substantiated against a non-employee, contractor etc., the necessary remedial measures, if appropriate, will be taken to protect the staff.

Inappropriate behaviour may lead to termination/non-renewal of contract, suspension /non-renewal of services, exclusion from premises or the imposition of other sanctions as may be deemed appropriate.

This policy applies to employees of An Post who are serving employees at the time of the alleged incident and at the time when the complaint is brought to the attention of Management. Where an employee leaves the Company while a complaint is being processed, the Company will have no jurisdiction over that employee. This may result in the cessation of an investigation.

This policy is consistent with existing equality policy, the health and safety statement and Statutory Codes of Practice. This policy will be updated to reflect the Company’s experiences in implementing it, relevant changes in the workplace, relevant law/case law and any relevant external factors.

## Introduction

The Company has revised its procedures for dealing with complaints of bullying, harassment and sexual harassment. The revised policy is in compliance with:

- The Joint Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work as revised by the Health and Safety Authority and the Workplace Relations Commission, December 2020
- Employment Equality Act 1998 (Code of Practice)(Harassment) Order 2012

The revision of the Company's Dignity at Work Policy has been carried out on a partnership basis and has been agreed with the Trade Union representatives of employees, thus reflecting the very best practice in employments generally. The procedures for dealing with complaints are considered to be the most practical and suitable for An Post.

The purpose of this policy is to promote positive workplace behaviour and to assure employees who are subjected to sexual harassment, harassment or bullying in the workplace, that action will be taken to end such abusive and offensive behaviour.

This policy advocates dealing with cases internally through the following processes which are explained in the policy:

- Informal Resolution;
- Initial Informal Process
- Secondary Informal Process
- Formal process

At any stage of the informal or formal processes or as an outcome of such processes voluntary mediation support may be made available should the appropriate HR Manager deem it to be appropriate. Mediation uses various techniques to separate the issues from the personalities involved. The fundamental objective is to resolve issues speedily and confidentially with the minimum of conflict and stress for the parties involved.

Only in the most unusual circumstances and if the internal processes fail, should it be necessary to refer matters to an independent third party for investigation.

It also provides details on the structures that are in place to lend support and assistance to staff who are either making, or are the subject of, a complaint under this policy.

Finally, this policy helps those involved to recognise the possible findings which may result from an investigation of a bullying or harassment complaint.

- the complaint is upheld
- the complaint is deemed to be unfounded / cannot be proven
- the complaint is deemed to be malicious or vexatious;
- Mediation process is agreed

## What are Bullying and Harassment at Work

The interchangeable use of the words harassment or bullying can often lead to a misunderstanding of what one relates to. They are legally distinct concepts so a behaviour can be deemed either bullying or harassment, but not both.

Bullying or harassment can be broadly characterised as behaviours which are unwanted or offensive to the recipient. It is the unwanted nature of the contact that distinguishes bullying, harassment and sexual harassment from friendly behaviour which is welcome and mutual. The intention of the perpetrator is irrelevant.

The effects of bullying and harassment are varied. Individuals working in an atmosphere of intimidation and fear cannot perform to their full capabilities. This can lead to low morale, increased absenteeism or even resignation.

Bullying and harassment can be devastating and destructive for the victim, in both their work and personal life. It may affect the physical and mental wellbeing of the victim. Loss of self-confidence, low self-esteem, stress and depression are just some of the health effects associated with long-term exposure to bullying/harassment.

Bullying and harassment are defined by the impact of the behaviour on the recipient rather than the intention of the perpetrator. The effect of the behaviour on the employee concerned is what is important. It is up to each employee to decide what behaviour is unwelcome, irrespective of the attitude of others to the matter.

Any act of bullying or harassment can occur outside the work premises or normal working hours provided the perpetrator was acting in the course of employment, for example, at a training course, conference or work-related social event.

### What is Bullying at Work?

For the purpose of this policy the definition of Workplace bullying is as follows:

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 one off incident, is not considered to be bullying.

Bullying at work can involve people in many different work situations and at all levels:

- Manager/supervisor to employee
- Employee to supervisor/manager
- One employee to another (or group to group)
- Customer or business contact to employee
- Employee/supervisor/manager to customer/business contact

In line with the above definition workplace bullying should meet the criteria of an ongoing series or accumulation of seriously targeted negative behaviours against a person or persons in order to undermine their esteem and standing in a harmful and sustained way. Bullying behaviour is offensive, ongoing, 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 activities involve actions and behavioural patterns, directly or indirectly, spoken and/or written and could include the use of cyber or digital means for the goal of bullying.

It is important to distinguish between such behaviour and normal social interaction that takes place between colleagues, involving mutually acceptable behaviour, or which comes within the bounds of the normal exercise of management and supervisory responsibilities.

Behaviour which makes for a bullying pattern may include a range of the following behaviours. In all forms of bullying, the determining factor is the repeated and persistent nature of the unwanted and offensive behaviour against an individual or group.

Note: Physical assaults may be a feature of bullying and/or harassment and in line with the code of conduct these will be addressed through the Company disciplinary processes. An Post does not tolerate physical assaults by employees in the workplace or at work related events.

Forms of bullying may include (list is not exhaustive) \*\*

- Private or public humiliation, deliberate exclusion/ostracism;
- Repeated use of aggressive/obscene language directed at an individual or individuals;
- Being treated less favourably than colleagues in similar roles
- Personal insults, such as name-calling, sneering, continued and deliberate staring;
- Repeated put-downs, offensive jokes;
- Repeated verbal abuse;
- Undermining a person's role, dignity or respect
- Spreading malicious rumours, gossip or innuendo
- Derogatory graffiti;
- Threatening behaviour;
- Intimidation/Aggressive behaviour by supervisor, manager or colleague;
- Excessive monitoring of work;
- Setting unreasonable tasks;
- Withholding information necessary for proper performance of a person's job

**Note: Any of the above can take place on line, on social media or other means of communication. In considering such matters due regard will be had to Company IT Policies including mobile phone, policies and regulation remote/hybrid working and the right to disconnect and any matters which impact the employment relationships which do not involve Company equipment and technology.**

## What is not Bullying at Work

It is important to distinguish bullying from other inappropriate behaviours or indeed appropriate workplace engagement. As set out in the definition above, a once off incident of bullying behaviour may be an affront to dignity at work and may be unsettling, but does not of itself fall within the definition of bullying. As a once off, such behaviours cannot automatically be presumed to be done in a targeted, purposeful and unremitting way.

In such circumstances it may be necessary for steps to be taken to resolve the issue. Where such a situation occurs, in the normal course of management of employees, the line manager or other appropriate manager will facilitate the parties in reaching a resolution. On occasions the use of a mediator or other such intervention as deemed appropriate, may be employed to assist in bringing about a resolution. The rationale as to why the particular approach was adopted should be recorded by the line manager and forwarded to the local HR Manager to record the intervention.

On other occasions, in appropriate circumstances, complaints relating to one off incidents may be dealt with separately under the Grievance Procedure or the disciplinary procedures.

Apart from once-off behaviours, other ongoing behaviours, which may upset or unsettle a person, may not come within the bullying definition either. Behaviour considered bullying by one person may be considered a routine interaction by another. Disrespectful behaviour, whilst not ideal or acceptable, is not of itself bullying. Conflicts and disagreements do not of themselves make for a bullying pattern either. There are various workplace behavioural issues and relationships breakdowns which are troubling, upsetting and unsettling but are not of an adequate level of destructiveness to meet the criteria for a bullying case.

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 an employee with their work. Poor work performance and/or conduct will be dealt with according to the operation of the appropriate (coaching, mentoring, discipline and grievance) procedures.

Bullying does not include:

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

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

This list is not exhaustive

## What are the effects of Bullying at Work?

Workplace bullying, and related complaints can have a range of effects on all of those concerned - the individual being bullied of course, but also team members, colleagues, others in the Company and the person being accused of bullying. For the Company the effects can include reputational damage, absence of employees from the workplace, reduced productivity, increased costs, poor morale and loss of respect for managers and supervisors.

For the employee concerned (the target of the bullying behaviour) the effects can include stress, associated physical and/or mental ill health, low morale, reduced performance and lower productivity. Some people decide to leave their employment, exposing themselves to financial and other strains by doing so.

For an innocent party who is the subject of a complaint, or unaware of the effects of the behaviour (i.e. the person accused of bullying) the consequences can likewise be significant in terms of anxiety, panic, distress and potential social embarrassment/Career damage. The effects of even one complaint of alleged bullying are pervasive across an organisation.

Both individuals or groups involved will likely be negatively impacted as may their respective teams in the case of individuals.

It is important in that regard that we have robust preventative approaches and effective clear transparent procedures in place. We will ensure that all involved, but especially managers and those in positions of authority are competent and capable of managing such matters efficiently and effectively.

## Distinguishing Bullying from Harassment

As detailed above the interchangeable use of the words harassment and bullying can lead to a misunderstanding of what each one relates to. They are legally distinct concepts and therefore a behaviour can be either bullying or harassment, but not both. It is important to distinguish bullying from harassment which is defined below.

Harassment is governed by the equality legislation and is predicated on the person being a member of one of the nine categories specified within the equality legislation. Bullying is legally distinct from harassment as bullying behaviour is not predicated on membership of any distinct group.

## Harassment - Definition

For the purpose of this policy, the definition of harassment as outlined in the Employment Equality Acts, 1998 - 2015 will apply, as follows:

Harassment is any form of unwanted conduct, related to any of the nine discriminatory grounds and being conduct which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

Harassment and Sexual Harassment are defined in the Employment Equality Acts as discriminatory treatment. Discrimination is defined in the Employment Equality Acts, 1998 -2015 and the Equal Status Acts 2000 and 2004 as the treatment of a person in a less favourable way than another person was, is or would be treated on nine distinct grounds:

The Employment Equality Act, 2004 extended the definition of harassment to include discrimination which arises where one of the nine grounds is imputed to a person or where a person who is associated with another person, and is treated by virtue of the association, less favourably than another person.

The Employment Equality Acts, 1998 -2015 outlaws' discrimination in the course of employment whether by an employer, another employee or by clients, customers or business contacts of the organisation as the treatment of a person in a less favourable way than another person was, is or would be treated on nine distinct grounds:

- The gender ground: A man, a woman or a transsexual person (specific protection is provided for pregnant employees or in relation to maternity leave);
- The civil status ground: Single, married, separated, divorced or widowed, in a civil partnership, or being a former civil partner in civil partnership that has ended by death or being dissolved;
- The family status ground: A parent of a person under 18 years or the resident primary carer or a parent of a person with a disability;
- The sexual orientation ground: heterosexual, bisexual or homosexual;
- The religion ground: Different religious belief, background, outlook or none;
- The age ground: This applies to all ages above the maximum age at which a person is statutorily obliged to attend school;

- The disability ground: This is broadly defined including people with physical, intellectual, learning, cognitive or emotional disabilities and a range of medical conditions;
- The race ground: A particular race, skin colour, nationality or ethnic origin;
- The Traveller community ground: People who are commonly called Travellers, who are identified both by Travellers and others as people with a shared history, culture and traditions, identified historically as a nomadic way of life on the island of Ireland.

Many forms of behaviour may constitute harassment including (list is not exhaustive):

- Verbal harassment - jokes, comments, ridicule or songs
- Written harassment - including faxes, text messages, emails or notices
- Physical harassment - jostling, shoving or any form of assault AT WORK
- Intimidation - 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;

The above list is not exhaustive.

Unlike bullying, harassment may consist of a single incident or repeated inappropriate behaviour.

**Note: Any of the above can take place on line, on social media or other means of communication. In considering such matters due regard will be had to Company IT Policies including mobile phone use, policies and regulation on remote/hybrid working and the right to disconnect and any matters which impact the employment relationships which do not involve Company equipment and technology.**

## Sexual Harassment - Definition

The Employment Equality Act, 1998 - 2015 outlaws' sexual discrimination in the workplace in the course of employment whether by an employer, another employee or by clients, customers or business contacts of the organisation.

For the purpose of this policy, the definition of sexual harassment as outlined in the Employment Equality Act, 1998 - 2015 will apply, as follows:

**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 for the person. Such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or material.**

Sexual harassment may consist of a single incident or repeated inappropriate behaviour.

The legislation applies to incidents of a sexual nature between a woman and a man and to individuals of the same sex.

Sexual harassment may take many forms, for example (list is not exhaustive):

- Sexual jokes, stories, comments, use of telephone (including text messages/social media posts), fax or radio systems for inappropriate suggestive comments, unwelcome comments about dress or appearance
- Displaying sexually suggestive objects, pictures, calendars, slogans, graffiti, written suggestive materials, pornographic material etc. through electronic mail or otherwise (including a display of pornographic or sexually suggestive pictures or objects)
- Asking personal questions, telling lies or spreading rumours about a colleague's sex life;
- Unwanted sexual advances including unwanted physical contact ranging from unnecessary touching to assault
- Persisting in unwelcome attempts to form or continue a relationship from which the consent of one party has been withdrawn
- Lewd remarks or innuendoes
- Unwelcome objectionable comments about a person or their dress related to their sex.

## Management of a positive work environment

The culture of our organisation is an important factor in creating, establishing and maintaining a positive workplace environment free from bullying, harassment, intimidation or any on-going negative behaviour which might lay the foundation stone for a bullying culture. In order to promote a positive workplace culture and to lead by example the Company has in place the following:

- Promotion and reinforcement of a positive workplace culture in which all employees are encouraged, and are comfortable with, raising issues of concern particularly in relation to inappropriate behaviours
- A Dignity at Work Policy
- Widespread policy awareness
- Appropriate training for those managing complaints and for line management
- Clear roles and goals for all participants in the formal and informal processes



Management, others in positions of authority and workplace representatives have a particular responsibility to ensure that bullying at work does not occur and that complaints are addressed speedily. In particular, they should:

- familiarise themselves with this Company policy;
- uphold it as an integral part of their work;
- work together with the Diversity and Inclusion Section to promote awareness of the policy among staff;
- work together with the Diversity and Inclusion Section to communicate the policy to employees and non-employees (ensure posters are prominently displayed where appropriate and copies of the policy are readily available/accessible);
- intervene in any instance where offensive behaviour is observed or brought to their attention;
- provide good example by treating all in the workplace with dignity and respect;
- be vigilant for signs of bullying at work through observation and taking action before a problem escalates;
- Deal sensitively with employees involved in a complaint of bullying or harassment;
- respond promptly to requests from employees to intervene and seek to resolve the matter informally where appropriate;
- explain the procedures to be followed if a complaint is made;
- ensure, insofar as practicable, that the employee is not victimised for doing so;
- monitor and follow up situations after a complaint is made to ensure that it does not reoccur.

## Rights and Responsibilities

### Employees

Employees have rights and duties as regards safety, health and welfare at work under the Safety, Health and Welfare at Work Acts and under the Employment Equality Acts.

They have rights to be treated with dignity and respect at work and not to have their safety, health or welfare put at risk through bullying by their employer, by other employees or other persons. They have a right to complain to the employer if bullied and not to be victimised for so doing. They have a right under safety and health laws to be represented in raising this with the employer.

Under Section 13 of the Safety, Health and Welfare at Work Act, 2005 employee duties include to:

- comply with the relevant statutory provisions, as appropriate, and take reasonable care to protect his or her safety, health and welfare and the safety, health and welfare of any other person who may be affected by the employee's acts or omissions at work,
- co-operate with his or her employer or any other person so far as is necessary to enable his or her employer or the other person to comply with the relevant statutory provisions, as appropriate, and
- not engage in improper conduct or other behaviour that is likely to endanger a person's own safety, health and welfare at work or that of any other person

Employees therefore have responsibilities to behave and conduct themselves so as to respect the right of employers and other employees to dignity, courtesy and respect at work. This individual responsibility extends to an awareness of the potential impact of personal behaviour on others and how it may cause offence and make others feel uncomfortable or threatened.

Employees should inform a manager or supervisor if they are concerned that a colleague is being bullied or harassed. They should also cooperate by providing any relevant information when an allegation of bullying at work is being looked into whether in an informal or formal stage.

### The Company

The Company may also have a vicarious liability in regard to bullying and harassment matters. This means that the employer may be held liable for the actions of an employee in the course of his/her employment, regardless of whether these actions were carried out with the knowledge or approval of the employer.

As previously referenced, Leaders/management, others in positions of authority and workplace representatives have a particular responsibility to ensure that bullying at work does not occur and that complaints are addressed speedily.

The Company has a duty to manage and conduct work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety, health or welfare at work of employees at risk. This duty means that the Company must act so far as is reasonably practicable to prevent workplace bullying patterns developing and where there are complaints, the Company must react so far as is reasonably practicable, to assess a complaint, record actions and put in place a suitable response based on each case arising.



In the workplace and particularly where people work together workplace bullying and harassment is a potential risk. Therefore, the Company has developed this policy in consultation with employees, to mitigate risk and to ensure a system is in place for dealing with complaints and addressing them in a fair and equitable manner.

## Trade Unions

The policy recognises the contribution to be made by the trade unions in An Post in the prevention of bullying in the workplace through their participation in the development, promotion and implementation of policies and procedures, through their representatives, information and training services, and through the collective agreement process. The Trade Unions in An Post also play a role in providing information, advice and representation to employees who feel they may have been bullied or subject to harassment at work, and to employees against whom allegations of bullying/harassment at work have been made.

## Communication and Support Services

An Post is committed to taking positive measures to educate all staff in awareness of bullying and harassment and the effects of this type of behaviour. Our commitment is to bring the policy to the attention of management, employees, clients and other business contacts.

This will be achieved in respect of employees by the following:

- including information in relation to this Policy at induction training, where this takes place;
- providing access to a copy of the document Dignity at Work: Anti Bullying & Harassment Policy for An Post to all staff members through appropriate channels;
- organising periodically, bullying and harassment awareness initiatives;
- training managers/supervisors to be aware of and to proactively deal with bullying & harassment issues as they arise.

This communication of the policy will be achieved in respect of non-employees by reference to the Dignity at Work Charter which will be displayed in workplaces where appropriate.

## Information and Support Services

If you believe that you are being/may be or have been bullied or harassed, you can seek information or assistance in relation to the policy in strictest confidence from any of the following individuals:

- Your Line Manager/Supervisor;
- Trade Union Representative;
- HR Manager;
- The Occupational Support Service;
- Any other Manager/Supervisor.

## Occupational Health & Support (OH&S)

Given the often personal nature of bullying or harassment, the recipient may need to discuss their concerns in total confidence with someone else, in a safe environment- a Designated Contact Person. Our Occupational Support Specialists have been designated by the Company as Designated Contact Persons. An Occupational Support Specialist can be contacted directly at any stage for counselling, support and guidance throughout the process. A list of useful telephone numbers is included below. The Occupational Support Service is available to all parties, at all stages. Where both parties to a complaint make contact with the Occupational Support Service, a different Occupational Support Specialist will be allocated to each party.

### Occupational Support Services Contact Numbers:

- North Leinster and South Dublin: 01-705 8568
- South Leinster and North Dublin: 01-705 8576
- Cork, Kerry, Tipperary, Limerick & Waterford Area Offices: 021 - 4851262/021 4851001
- All counties in Connacht, Donegal & Clare: 071 - 9151989

## Employee Assistance Programme

In addition to support services provided through Occupational Support Services mental wellbeing, counselling and support services can be obtained on a confidential, 24/7, 365 days a year basis through our Employee Assistance Programme (EAP). The EAP offers support with:

Counselling	Depression, anxiety and stress
Legal information	Work stress and work-life balance issues
Financial information	Workplace conflict and communication
Consumer information	Career guidance
Life coaching	Mediation
Health information	Addictions

Access to this Wellbeing Support Programme can be made through either of the following:

- Freephone: 1800 903 542
- Wellbeing Platform: <https://anpost.spectrum.life> (Organisation Code: An Post)

Further details are available on the Company intranet/ An Post People APP.

## Victimisation

It is unlawful to victimise an individual as a result of making a complaint, or giving notice of intention to do so. Complaints of victimisation will be treated as allegations of misconduct and will be dealt with through the grievance procedure and, if upheld, will be dealt with under the Company's disciplinary procedure.

## How An Post responds to Workplace Bullying

As detailed above An Post deals with claims of bullying in the workplace through the following processes, which are detailed below:

- Informal resolution;
- Initial Informal Process
- Secondary Informal Process
- Formal Process
- Mediation

Any complaint about, or awareness of, alleged bullying requires quick, calm and consistent attention. Early intervention offers the best possible potential for a good outcome, particularly regarding restoring workplace relationships. However, this does not equate with a rushed approach. Each case is treated on its own merits. In general, a matter that is protracted, for whatever reason, becomes more difficult to resolve in a positive way.

An Post advocates a problem-solving approach to ensure that the behaviour complained is considered and if established in fact, is eliminated and that positive working relationships are restored. This process aims to:

- assess the allegation and address them;
- use agreed procedures;
- be consistent, systematic, transparent and unbiased;
- have an intervention addressing the issue in a quick, calm and consistent manner, ideally in place within three weeks or an agreed indicative time frame (Appendix 1);
- promote the restoration of harmony over the medium to long term.

A complaint must be made within six months of the latest incident(s) of alleged bullying, harassment or sexual harassment behaviour.

An offer of mediation may be made by a HR manager or other relevant manager at any stage where it is deemed that the expert skills of a Mediator would be of assistance.

If an employee feels that they have been subjected to inappropriate behaviour by a third party non-employee, they should bring the matter to the attention of their line manager so that the matter can be investigated and appropriate action taken.

## Informal Resolution

As a prompt and informal problem-solving approach offers the best potential for addressing allegations of bullying or harassment effectively it is the preferred approach of An Post and its Trade Unions that complaints are dealt with informally whenever possible. The objective of the informal procedure is to allow scope for resolving issues quickly, with the minimum of distress and restoring positive workplace relations. Even if a complaint is in writing it can still be dealt with as part of the informal process.

Informal resolution of a specific bullying allegation could include for example, clarification of what bullying is, agreement to alter verbal style, agreement by the person complained of, if they accept that their behaviour was inappropriate, that the conduct will not be repeated, or an explanation to the complainant about what occurred from the point of view of the person complained of which dispels the complaint.

This collaborative and non-adversarial approach is particularly important in situations where people must continue to work together into the future. Some key elements of our informal approach are:

- Employees being confident that they will be listened to, will be taken seriously and that their issues will be assessed fairly, quickly and effectively.
- Managers having the confidence and capacity to engage on such issues and to respond and consult appropriately.
- Confidentiality to be respected by all.
- A focus always on the future workplace relationship and a problem-solving orientation.

An informal approach may effectively address the unwanted behaviour without recourse to any other action. Sometimes the person who is alleged to be engaging in the behaviour is genuinely unaware that the behaviour being complained of is disrespectful or unwelcome/undermining and/or causing distress. An Post has a two stage process, initial and secondary, for dealing with such cases informally.

## › Initial Informal Process

In the first instance, the unacceptable behaviour/acts should be raised by the complainant with the alleged offender but only if they feel comfortable in doing so. This should be done quickly and calmly, focusing on the facts regarding acts done and their consequences. If the complainant feels unable to do this, they may request a Union Representative to speak on their behalf

If it is more suitable, the individual who perceives that they are the recipient of unacceptable behaviour can put their concerns in writing, again focusing on the offending acts and their effects on them. This does not mean that they are making a formal complaint.

Where an employee perceives that the concerns relate to an immediate manager, the employee may wish to discuss the matter informally with their manager's manager or a person at the next level of management. If they wish they could be accompanied to such a meeting by their Union Representative

On receipt of a complaint of alleged bullying, or a complaint that a bullying atmosphere or bullying type behaviours are occurring, the line manager or other appropriate manager will attempt to have the matter resolved informally with the consent of the parties involved. This is likely to produce solutions that are speedy, effective and minimise embarrassment and the risk of breaching confidentiality. This informal approach in no way proposes to diminish the issue or the effect on individuals. For general non-specific issues, a proactive, non-judgemental intervention approach such as information sessions, clarifying what is acceptable interaction for a workplace and monitoring will be used.

The focus of these steps is to seek to resolve the matter informally by agreement without recourse to any other step. An informal discussion is often sufficient to alert the person concerned to the effects of the behaviour alleged and can lead to a greater understanding and an agreement that the behaviour will stop. It can also lead to an explanation of the original intention of the behaviour and/or an agreement to modify the behaviour. On the other hand, it may be that the behaviour is valid and reasonable, and the reaction of the offended party is at odds with the generally accepted understanding of the behaviour.

In line with the relevant data protection legislation a brief written record will be created of the matter and the agreed outcomes and dates by the line manager or other relevant nominated manager appointed to manage the case. This record should be sent to the relevant Area HR Office for filing.

## › Secondary Informal Process

If the initial informal process is unsuccessful or if the complainant or the line manager or other appropriate manager deem it inappropriate for the seriousness of the issues, a further, more protracted informal process can be put in place. This will be done in consultation with the complainant, their Union Representative where the person is represented and the Area HR Manager.

For the Secondary Informal stage, the Company will appoint a Manager (the nominated person) who has the appropriate training and experience and who is familiar with the procedures involved to deal with the complaint on behalf of the Company. The Company see this as a pivotal role in altering bullying cultures and will provide them with effective guidance and training.

- 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 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 bullying as defined and includes concrete examples of inappropriate behaviour, the person complained against should be presented with the complaint and their response established. They should be advised of their right to seek advice/support including Union advice.
- Thereafter a method should be agreed to progress the issue to resolution so that both parties can return to a harmonious working environment without bullying being a factor.
- If the behaviour complained of does not concern alleged bullying as defined, an alternative approach 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 cannot be expected to address a complaint that contains no specific examples
- Line managers and the Union Representative should be kept informed, as appropriate, about the process in train but the confidentiality of the process should be stressed
- Steps to stop the bullying behaviour, where it has been identified, and monitor the situation along specified lines should be agreed with both parties. This may involve a direct or indirect approach and possible resolution through a programme to change behaviour. It may also involve mediation by an agreed mediator who is practised in dealing with alleged bullying at work.
- Enough time will be allowed for the mediation or on-going monitoring process to be successful and behavioural change to be realistically achieved over the longer term. It may be necessary to consider if other working arrangements are required or feasible during this short-term phase. In such circumstances a proposal will be made, considered, and an action and time frame agreed, signed and dated, preferably by both parties.

- The nominated person responsible for managing the complaint should keep a small record of all stages; the complaint, the first meeting, action agreed and signed records of the final meeting. The purpose of the records, which do not include detail of discussions, is to provide evidence of the complaint having been met with an organisational response and attempt at resolution.
- Information disclosed in the course of mediation will remain within the mediation process and will not be given by the mediator to anyone including if the case is subsequently referred for a formal investigation or if disciplinary proceedings are commenced.
- Confidentiality is crucial in order for this process to be effective and any breach of confidentiality will be treated as misconduct and will be processed through the An Post Disciplinary Procedures.

### Closure of Informal Stage

Once a resolution is found through the informal procedures both parties will be given support by the nominated person or their nominee (e.g. Occupational Support Specialist) and periodical reviews, insofar as is reasonable, which, if necessary, could include counselling or other appropriate interventions or support services.

Where a complaint has been assessed as vexatious the matter will be progressed through the An Post Disciplinary Procedures.

In the majority of cases, and with the cooperation of all parties, the above should adequately address matters.

## Mediation

### What is Mediation?

Mediation is an informal, voluntary and confidential process which is used to help improve working relationships between individuals, perhaps where there has been a misunderstanding or a disagreement. It is a process where an impartial and competent third party mediator enables individuals to work through misunderstandings, disagreements or conflict, with a view to improving their working relationship. It is a valuable tool at any stage of the procedure, but particularly beneficial at the earliest possible stage. It is established that the earlier a mediation process is used, the greater the potential for resolving the matter satisfactorily. Suitably qualified mediators, whether internal or external, are used.

Mediation uses various techniques to separate the issues from the personalities involved. It is based on the principle of collaborative problem solving, with a focus on the future and rebuilding relationships rather than apportioning blame. It gives the participants an opportunity to step back and look at how the situation can be put right, considering their own actions as well as those of the other party.

As Mediation is a voluntary and independent process it cannot be imposed on the parties. It is conducted on the basis that both parties want to achieve a mutually agreeable outcome and solution to their issues and can only take place if both parties agree to participate. Agreeing to participate in mediation illustrates the parties desire to partake in a process aimed at resolving workplace conflict and restoring a positive working environment. It can end at any stage if either party or the mediator decides to withdraw from the process.

While mediation is a “process” it is important to note that every mediation is unique and its very success will depend on it retaining its flexibility. Every mediator mediates differently and will mediate on each of their cases differently depending on the type of mediation, the subject matter of mediation and on the reaction of the participants in the mediation session.

### The Objective of Mediation

The fundamental objective of mediation is to resolve matters or conflict speedily and confidentially without recourse to a formal investigation, with a minimum of conflict and stress for the individuals involved. It aims to provide individuals with an objective and impartial framework for preventing or resolving a broad range of conflicts at an early stage. It also provides a process for reconciling and improving working relationships, if Mediation is recommended following a formal investigation

The parties self-determine their own solution rather than having a solution imposed on them. They make their own decisions in relation to the outcome which, including the content, belong to them. The parties are asked to disclose all relevant information during the mediation. A successful mediation should lead to both parties feeling that the outcome is fair, reasonable and appropriate under the circumstances. Agreements arrived at through this process tend to be more stable and longer lasting as they are owned by the parties involved.

### Invoking the Mediation Process

When a complaint is received by a designated member of management the complainant and respondent may be invited to participate in mediation.

Alternatively, an employee may request the mediation process in order to resolve their issues. The final decision in relation to invoking the mediation process rests with the HR Manager or nominated person. The issue can be referred to mediation at any stage including if an investigation has commenced, if the parties involved are agreeable.

If either party involved would like to know more about Mediation or to meet the Mediator(s) to help them decide if they will participate in the process this will be facilitated through the HR Manager.

Where it is decided to refer a complaint to mediation, both parties will be put in contact with the appropriate HR Manager or Occupational Support Specialist in order to activate this option and the situation will be kept under review by the HR Manager.

The Head of Employee Relations will source a panel of trained mediators internally or externally whose services can be used as described if requested by HR Managers or nominated individuals as described in the informal process above.

Parties are normally seen together. However, in some cases the mediator may consider it helpful to discuss an issue alone with either of the parties. While it is always at the discretion of the mediator, either party may also request that the mediation be held in a separate room. The substance of the complaint will be outlined for the parties involved in advance of the mediation process.

## Confidentiality

Confidentiality applies to the Mediation process and to all parties who are involved with the process and encourages open and honest dialogue. The information discussed at mediation remains between the parties involved and a mediated agreement will not result in the issues being dealt with under the Company's disciplinary procedures. Any information exchanged during the mediation process remains strictly confidential and cannot be disclosed as part of any subsequent formal investigation.

A mediated agreement will not result in the issues being dealt with under a disciplinary policy. Any information exchanged during the process remains strictly confidential and cannot be disclosed as part of a formal investigation.

The only exception to this rule of strict confidentiality is where there is a potential unlawful act or where there is evidence of serious risk to health and safety. In these circumstances the process will be terminated.

## Agreements

Once resolution has been achieved, an agreement will be signed by both parties. This remains confidential between the parties and the mediator. If the agreement contains items requiring support from other individuals both parties must agree how this will be handled and include it in the agreement.

If following a mediated agreement either party is of the view that the agreement has been breached the matter must be referred by that party to their respective HR Manager.

Where Mediation is unsuccessful or the offer of Mediation is refused the Head of Employee Relations may refer the matter to an investigator(s) to begin or resume an investigation.

## Formal Process

If the issue is not, or cannot be, resolved through the informal process or through mediation or if the bullying/harassment persists following informal intervention, and should the formal process be invoked by either party the Head of Employee Relations will decide if a formal investigation is appropriate. It will not be an automatic first step and will only be commenced following a consideration of all of the circumstances of the case. In considering the matter, the Head of Employee Relations will take a broad based and evidence based perspective.

If it is decided that a formal process is appropriate the process will include a formal complaint and a formal investigation. The purpose of an investigation is to determine the facts and the credibility, or otherwise, of a complaint of bullying. It is a significant step and all parties involved need to be aware of the potential consequences. In particular, it will make it more difficult to restore normal workplace relations, it may involve more parties outside the parties in conflict and may not solve the issue for the parties concerned.

The complainant should make a formal complaint, which must be in written form and signed and dated. Where this is not possible a written record should be taken of the complaint by the nominated person and signed by the complainant and dated. The complaint should be confined to precise details of alleged incidents of bullying, including their dates, and names of witnesses, where possible.

The complainant will be advised of the aims and objectives of the formal process, the procedures and approximate time frame involved, and the possible outcomes. Both parties will be assured of support as required throughout the process. Both parties at the outset of the investigation will be given a copy of this Policy.

The person complained against will be notified in writing that an allegation of bullying has been made against them. They will be assured of the organisation's presumption of their innocence of any wrongdoing at this juncture. They will be advised of the aims and objectives of the formal process and procedures and time frame involved and the possible outcomes. They will be assured of support as required throughout the process.

A meeting will be organised at which they are given a copy of the complaint in full and any relevant documents.

## Terms of Reference

Once a complaint is received and a decision has been made by the Head of Employee Relations (or their nominee) to proceed to the formal process, the Company will appoint either a designated member(s) of management or, if necessary, (for example in the case of any possible conflict of interest) an independent third party to carry out an investigation. In either case, the person nominated will have appropriate training and experience and be familiar with the procedures involved.

An initial meeting will be organised by the appointed person at which each person is met with separately, starting with the person making the allegation. The other party, when met with, should be given a copy of the complaint in full and both parties should be given any relevant documents. Both parties should be assured of support as required throughout the process and advised of their right to Union assistance.

The investigation will be governed by terms of reference which will include the following and be outlined to both parties. They should be advised that

- The investigation will be conducted in accordance with this Policy.
- An indicative timescale will be outlined for the completion of the investigation and its rationale explained.
- The scope of the investigation is to fact find and to establish the credibility or otherwise of the complaint.
- The confidentiality of the process will be emphasised to all concerned and that breaches of confidentiality will be dealt with through the disciplinary procedures.
- Statements from all parties, including witnesses, will be recorded in writing as the use of written statements tends to make matters clearer from the outset and maintains clarity throughout the investigation.
- Copies of the record of their statements, should be given to and agreed with those who make the statements.
- Copies of all statements, including witnesses, will be shared with both parties.
- Both parties will be advised of their right to seek Union assistance and advised that it would be in their best interests to avail of Union Representation.
- All parties will continue to work normally, if possible, during the investigation.
- All parties to the process have a responsibility to participate without undue delay
- in any investigation initiated in response to an allegation of bullying.

## Investigation

The scope of the investigation should indicate that the investigator will decide, based on the facts before them, whether the behaviour complained about may, on the balance of probabilities, have occurred. The investigation itself will be a fact-finding one with the focus on what did, or did not occur and should therefore establish if there is a case to answer.

The investigation will be conducted thoroughly, objectively, with sensitivity, utmost confidentiality, and with due respect for the rights of both the complainant and the person complained of.

The Company will appoint an investigation team of two people, selected from a panel of suitably trained individuals. Every effort will be made to ensure a gender mixed team from at least one grade above the complainant and alleged offender(s). The investigators will not be people who were previously involved in the informal process.

After the initial meeting with the complainant and the person complained of the investigation team will meet with any witnesses or relevant persons on an individual confidential basis with a view to establishing the facts. All parties in the investigation have a right to be accompanied by a Trade Union Representative/Work Colleague if they so desire. This person is not an advocate for the employee.

The investigation team will consider all material and evidence before it and a decision will be made on the balance of probability, as to whether the behaviours complained of occurred and whether there is a case to answer.

All parties to an investigation are bound to strict confidentiality. Any individual (complainant, person complained of, witness(es) etc.), found to be in breach of confidentiality related to an investigation will render themselves liable to disciplinary action, which may result in disciplinary proceedings up to and including dismissal.

Lack of cooperation with/or obstruction of an investigation may be treated as a disciplinary matter. Failure to cooperate with the investigation will be noted and will not preclude the investigation from continuing.

The investigation will be completed as quickly as possible, preferably within the agreed timeframe. The time it takes to investigate a matter will depend on the particular circumstances and the number and availability of any witnesses. Insofar as is possible the investigation should be ideally concluded within sixty-eight (68) working days commencing with the assignment of the investigation team. An indicative time frame is outlined in Appendix 1.

The investigation team will submit a report to the Head of Employee Relations who initiated the formal investigation which will include the conclusions of the investigation team. The complainant and the person complained of will be given a copy of the report as soon as possible by the Head of Employee Relations and given an opportunity to comment, within a set deadline, before they decide on any action to take.

The Head of Employee Relations or their nominee will decide in the light of the investigation team's report and the comments made, if any, if the complaint is upheld in whole or in part and what action is to be taken arising from the report. The Company will then write to the complainant and the person complained against advising of the next steps. At the end of the process the documentation will be kept by the Company in line with the General Data Protection Regulations.

Where a complaint is deemed upheld, the matter will be dealt with under the Company's Disciplinary Procedures.

Where a complaint is not upheld, it will be made clear to both parties that the complaint is not upheld, and no wrong doing has been found.

Where a complaint has been found to have been maliciously made, the matter will be dealt with under the Company's Disciplinary Procedures.



## Appeals

An appeal against the findings of the investigation may be submitted to the manager who initiated the investigation. The appeal should be lodged within fourteen (14) days of the issue of the report.

The purpose of the appeal is not to re-hear the case from the beginning and the reason for the appeal should be clearly outlined, accompanied by any relevant supporting documentation.

The appeal will be heard by a manager who had no involvement in the investigation of the case and will focus on the conduct of the investigation in terms of fair procedure and adherence to procedure.

The outcome of the appeal will be issued in writing to the complainant and person complained of by the manager to whom the appeal was made. All reasonable efforts will be made to complete the appeal within 21 days of its receipt, subject to the availability of the parties. The outcome of the appeal will be final.

If the internal procedures have been exhausted, and the matter remains unresolved, the case may be referred to an independent third party, as provided for in the agreed Grievance Procedures.

## Malicious or Vexatious Complaints

A malicious complaint can be described as an allegation being made without foundation, and with malicious intent, where a person knowingly or without regard to whether it is true or not, accuses another person of allegedly bullying them. This could also apply to where one person maliciously complains of someone allegedly bullying a third party, without fully exploring the veracity of the claim.

A malicious complaint has the power to disrupt another person's life to a significant extent and the potential damage should not be underestimated. Being accused of bullying can have a serious impact on any person and reduce his or her reputation in the eyes of others, even if later shown to not have been proven. A malicious complaint, if proven, can have serious implications for the employment of the person making such a complaint including disciplinary action, where established.

A complainant's rights are protected under this policy and they will not be penalised for making a complaint in good faith. If, however, it is found that the complaint was brought maliciously or was vexatious, it will be treated as misconduct under the Company's disciplinary procedures.

## Investigation Findings and Actions Arising

The Company is aware that the effective communication of the outcome of any investigation is critical and the Company is committed to ensuring that these outcomes are communicated

sensitively and fairly. All parties directly involved in the complaint (i.e. complainant(s) and respondent) are entitled to know whether the complaint is upheld in whole or in part, or if it is not upheld, the reason why. At the completion of the investigation, both the complainant and the alleged offender will be informed of the outcome of the case.

Specific details of disciplinary action to be taken against any party are confidential and other parties are not entitled as a matter of course to receive this information as part of the outcome.

Possible outcomes of the investigation could be:

- There is a case to answer.
- There is no case to answer.
- The complaint is deemed to be vexatious or malicious.
- It cannot be determined whether or not there is a case to answer, as there is no, or insufficient, evidence on the balance of probability to support the claim.
- If parties are amenable, the complaint is referred to an agreed Mediator.

## Records and Monitoring

Central records, where available, will be maintained on a strictly confidential basis in line with the General Data Protection Regulations and will be accessible only through the Head of Employee Relations or their nominee. This central record will be for the compilation of statistics which may be used for reporting purposes, to identify trends and for management information purposes and make interventions when appropriate.

### Monitoring

This information will also be used to monitor this policy in its application, to track the known number and nature of complaints being raised, how people are accessing the policy, the speed of processing and any modifications which may be required.

This information will be used to assist the Company in taking corrective action or achieving continuous improvement in the bullying prevention policy and procedure.

Statistical information will be made available to the Unions and others every January by the Head of Employee Relations, if available, on a confidential basis where they deem the provision of this information would assist in the development of Policy. The nature of the information provided may include the following: the number of formal complaints received, the number of complaints under investigation, the number of complaints resulting in disciplinary action and, on a percentage basis the number of complaints resulting in dismissal, serious offence, warning etc., and the length of time in processing cases.

This policy will be reviewed on a regular basis in line with changes in the law, relevant case law and other developments. This policy is a collective agreement registered with the JCC and any amendments will be made through that forum or a nominated sub-committee.



## Closure and Next Steps

Both parties will ideally be supported to enable them to remain at work while matters raised under this policy are being dealt with.

A change of work location for either or both parties if requested may be considered by Management.

Both parties will be given appropriate support and periodical reviews, insofar as is reasonable, after a resolution is found so as to obtain closure. It is accepted that investigations can result in very divisive relationships for individuals, teams and workplaces and some type of reconciliation or rehabilitative meetings, or team working session may be arranged to restore healthier working communication for the future. A person will be designated to follow up by way of support, for example OHS, EAP or a Mediator may be asked to support the parties further.

### General

**This policy does not affect the statutory rights of an employee. Nothing in this policy is designed to prevent a person exercising their statutory entitlements by making a complaint under the Employment Equality Act, or the Industrial Relations Act, 1946-2001. Complaints under the Employment Equality Act must be brought within six months of the last act of discrimination. For Reasonable cause, the six-month time limit may be extended to 12 months.**

## Appendix 1 - Indicative Time Frames

Prompt action must be taken by the relevant HR Manager to ensure that investigations are initiated within two weeks of receiving a formal complaint., subject to the availability of the parties.

Acknowledgement Letter to the Complainant	1 week
The Complainant's Interview	2 weeks
Notes to the interviewee	1 week
Return copy of notes with amendments	1 week
Amended notes to interviewee	3 days
Notification of Complaint to the Alleged Offender	1 week
The Alleged Offenders interview	1 week
Notes to the interviewee	1 week
Return copy of notes with amendments	1 week
Amended notes to interviewee	3 days
Other Interviews	1 week
Notes to the interviewee	1 week
Return copy of notes with amendments	1 week
Amended notes to interviewee	3 days
Report to Manager who initiated investigation	4 weeks
Notification of result of investigation	2 weeks

