

NORTHERN IRELAND COLLEGE EMPLOYERS' FORUM

CIRCULAR NO: CEF 2006/06

19 October 2006

To: Joint Secretaries, Non-Teaching Staff Negotiating Committee
Joint Secretaries, Lecturers' Negotiating Committee
Directors/Principals & Chief Executives of Institutes of Further Education
Chairpersons of Governing Bodies of Institutes of Further Education
DE Salaries Branch
DEL Further Education Branch
Education & Library Boards
TGWU
GMB
MSF
NIPSA
UNISON
NATFHE
NASUWT

FURTHER EDUCATION NON-TEACHING STAFF NEGOTIATING COMMITTEE AND FURTHER EDUCATION LECTURERS' NEGOTIATING COMMITTEE

Harassment Policy for Employees in Institutions of Further Education

In accordance with the provisions of Article 11, Schedule 3, paragraph 10.3 of the Further Education (Northern Ireland) Order 1997, the Constitution for Negotiating the Terms, Conditions of Service and Remuneration of Non-Teaching Staff Employed in Incorporated Colleges of Further Education and the Constitution for Negotiating the Salaries and Conditions of service of lecturers employed in Incorporated Colleges of Further Education, it has been determined that:

The enclosed Employee Harassment Policy, which was ratified at both the Non-Teaching Staff Negotiating Committee and the Lecturers' Negotiating Committee, forms part of the Non-Teaching Staff contract and Lecturers' contract from October 2006.

Desmond Linton
Chairman
College Employers' Forum

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Harassment Policy for Employees in Institutions of Further Education

1. Statement of Policy

- 1.1 As part of its overall commitment to equality of opportunity, the Governing Body and Senior Management Team of (name of Institute/College) are fully committed to promoting a good and harmonious working environment where every employee is treated with respect and dignity and in which no employee feels threatened.
- 1.2 Harassment can take many forms and may be related to an individual's:
gender, marital or family status
religious belief or political opinion
disability
race or ethnic origin
nationality
sexual orientation
age
Trade Union activities, or
for any other reason relating to the above
Bullying, although not specifically covered by legislation, is a form of harassment and is therefore an unacceptable form of behaviour within this Institute/College.
- 1.3 The aim of this policy and the accompanying procedure is to prevent harassment, provide guidance to resolve any problems should they occur and to prevent reoccurrence.
- 1.4 Harassment at work in any form is unacceptable behaviour and will not be permitted or condoned. Sexual, sectarian, and racial harassment, harassing a disabled person on account of disability, or harassing a person on the basis of his/her sexual orientation, constitute discrimination and are unlawful under current legislation. Harassment may also be a civil offence or a criminal offence and it may contravene health and safety legislation.
- 1.5 Harassment detracts from a productive working environment and can affect the health, confidence, morale, and performance of those affected by it, including anyone who witnesses or knows about the unwanted behaviour. This can have a direct impact on the efficiency of the organisation.
- 1.6 Harassment is inappropriate behaviour at work and will be treated by (name of Institute/College) as misconduct which may include gross misconduct warranting dismissal (under the relevant disciplinary procedure). Every employee is subject to and must comply with this policy.
- 1.7 This policy is fully supported by the Governing Body and Senior Management and has been agreed with the recognised trade unions (lecturing and support staff).

2. Definition of Harassment

- 2.1 Harassment is unwanted conduct related to gender, race or ethnic origin, age, disability, religion or belief, sexual

orientation or any other behaviour which affects the dignity of a person and which creates an intimidating, hostile, degrading, humiliating, or offensive environment. It may be persistent or an isolated incident. This can include unwelcome physical, verbal, or non-verbal conduct or bullying. Such behaviour is unacceptable: where it is unwanted, unreasonable and offensive to the recipient or where it is used as the basis for an employment decision or where it creates a hostile, humiliating or intimidating working environment

- 2.2 Bullying is defined as offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means which undermine, humiliate, denigrate or injure the recipient.
- 2.3 Some examples are given below but many forms of behaviour can constitute harassment:
 - physical conduct ranging from touching to serious assault
 - verbal and written harassment through jokes, racist remarks, offensive language, gossip and slander, sectarian songs, threats, letters, including electronic communications
 - visual displays of posters, graffiti, obscene gestures, team shirts, flags, bunting or emblems or any other offensive material
 - isolation or non-co-operation at work, exclusion from social activities
 - coercion, including pressure for sexual favours, pressure to participate in political/religious groups
 - intrusion by pestering, spying, following etc.This list is not exhaustive.

It should be noted that it is the impact of the behaviour which is relevant and not the motive or intent behind it.

- 2.4 The alleged “harasser” may include work colleagues, students, contractors, contracted staff, members of the public or other roles covered by the term “stakeholder”. This list is not exhaustive.

3. *Employees’ Rights*

- 3.1 Every employee has the right to work in an environment which is free from any sort of harassment. (Name of Institute/College) fully recognises the right of every employee to complain about harassment, should it occur. All allegations of harassment will be dealt with seriously, promptly and confidentially. A copy of the complaints procedure in relation to allegations of harassment, which has been agreed with the recognised trade unions, is attached.
- 3.2 An allegation of harassment must be lodged to the Institute/College as soon as practicable but within three months from date of the alleged act of harassment.
- 3.3 Where an allegation of harassment has not been lodged to an Institute/College within the time limits as specified above, the Director/Principal will decide if it is just and equitable, considering all circumstances for the matter to be dealt with under this procedure.
- 3.4 Every effort will be made to ensure that the employee making an

allegation of harassment, and others who give evidence or information in connection with the allegation of harassment, will not be victimised. Victimisation is treating someone less favourably after they have complained of alleged discrimination or have assisted someone else to do so. It is contrary to the Disability Discrimination Act 1995, the Fair Employment and Treatment (NI) Order 1998, The Race Relations (NI) Order 1997, The Sex Discrimination (NI) Order 1976 and The Employment Equality (Sexual Orientation) Regulations (NI) 2003. Any allegation of victimisation will be dealt with seriously, promptly and confidentially. Victimisation will result in disciplinary action and may warrant dismissal.

- 3.5 This procedure does not replace or detract from the rights of employees to pursue a complaint to an Industrial or Fair Employment Tribunal.

4. *Employees' Responsibilities*

- 4.1 Every employee has a responsibility to help ensure a working environment in which the dignity of every employee is respected. Everyone must comply with this policy and the employee should ensure that his/her behaviour to colleagues and customers does not cause offence and could not in any way be considered to be harassment.
- 4.2 Every employee should discourage harassment by making it clear that he/she finds such behaviour unacceptable and by supporting every colleague who suffers such treatment and is considering making an allegation of harassment. Each employee should alert a member of the senior management team or supervisor/line manager to any incident of harassment to enable the Institute/College to deal with the matter.

5. *Management Responsibilities*

- 5.1 All levels of management within the Institute/College have a duty to implement this policy and to make every effort to ensure that harassment does not occur, particularly in work areas for which they are responsible. They have a responsibility to take action in respect of any incidents of harassment of which they are directly or indirectly aware. If harassment does occur, they must deal effectively with the situation.
- 5.2 Managers and supervisors should:
- Ensure that each employee has been made aware of the institute's/college's policy and explain the policy to their employees and take steps to promote awareness of the procedure for dealing with allegations of harassment.
 - Be responsive and supportive to any employee who makes an allegation of harassment, provide clear advice on the procedure to be adopted, maintain confidentiality, and seek to ensure that there is no further problem of harassment or victimisation after an allegation of harassment has been resolved
 - Set a good example by treating all employees and customers with dignity and respect
 - Be alert to unacceptable behaviour and take appropriate action
 - Ensure that employees know how to raise harassment problems

6. *The Institute's/College's Responsibilities*

- 6.1 (name of Institute/College) will ensure that adequate resources are made available to promote respect and dignity in the workplace and to deal effectively with allegations of harassment. This policy and procedure will be communicated effectively to every employee and the Institute/College will ensure that all employees are made aware of their responsibilities by means of appropriate training.
- 6.2 Every allegation of harassment will be dealt with promptly, seriously and confidentially. However, where an allegation of harassment reveals an activity which may have criminal implications or connotations, then it is unlikely that confidentiality could be preserved in a complete investigation. If such a disclosure is required, the Institute/College will observe any responsibilities or requirements under the law. In such circumstances, this may result in the Institute/College relinquishing its claim to confidentiality. The Institute/College will take all reasonable steps to protect the complainant from further harassment.
- 6.3 The Institute/College will provide training for employees selected as harassment advisors, if applicable, and for senior employees who may have to carry out investigations of harassment.

7. Review

7.1

The Governing Body of (name of Institute/College) will monitor all issues arising out of and pertaining to potential or actual incidents of harassment, to prevent reoccurrence and to review the effectiveness of this policy and procedure annually and disseminate this information to recognised trade union representatives. Additional training will be provided as appropriate.

Date:

Signature:

Chairperson of Governing Body

PROCEDURE FOR DEALING WITH ALLEGATIONS OF HARASSMENT

1. SCOPE

- 1.1 ***Any employee who believes that he/she has suffered any form of harassment is entitled to raise the matter through the following procedure.***
- 1.2 ***This procedure does not replace nor detract from his/her statutory rights under sex discrimination, fair employment, disability discrimination, race relations or sexual orientation legislation.***
- 1.3 ***An employee has the right to proceed immediately to the formal stage if he/she feels that the allegation of harassment is too serious to be treated informally.***

Confidentiality

- 1.4 Complaints of harassment may include allegations of a highly sensitive nature and the release of such information could be damaging to the reputation of both complainant and/or alleged harasser. It is vital that employees who may wish to raise a complaint can be assured that the matter will be handled in the strictest confidence. Equally an employee who is accused of harassment is entitled to the same protection of their reputation, particularly should a complaint prove to be unfounded.
- 1.5 At all stages of the procedure, staff involved in any way with a complaint shall be personally responsible not to disclose any details of the complaint to any person who does not have a proper interest in this matter. Failure to ensure this high level of confidentiality may lead to appropriate disciplinary action.

2 THE INFORMAL STAGE

- 2.1 This stage is appropriate where the employee simply wants the behaviour to stop or where it has not been repeated.
- 2.2 An employee can seek to resolve the matter informally by:
 - i. approaching the alleged harasser directly making it clear to the person[s] harassing the employee that the behaviour in question is offensive, is not welcome and should be stopped
 - ii. approaching the alleged harasser with the support of a manager, a colleague, a trade union representative or Harassment Advisor
 - iii. approaching the alleged harasser with the support of a senior member of staff
- 2.3 If it is too difficult or embarrassing to do this personally, the employee may request a manager, a work colleague, senior member of staff, Harassment Advisor or trade union representative to approach the alleged harasser on his/her behalf.
- 2.4 The College/Institute will ensure that, where practicable, employees can

raise allegations of harassment, should they wish, with someone of their own gender, religious belief or race or who is aware of and sensitive to the relevant issues.

- 2.5 Where an employee seeks the support of a senior member of staff, Harassment Advisor or trade union representative he/she will be advised that the role of the senior member of staff, Harassment Advisor or trade union representative, at the informal stage, can only be one of support or assistance.
- 2.6 The employee will be advised that:
 - i. a formal investigation and possible disciplinary action can only take place if the allegation of harassment is investigated under the formal procedure.
 - ii. a written record of the action taken should be made to assist with any formal proceedings, which may arise if the behaviour does not stop. Failure to maintain such a record will not invalidate proceedings at the formal stage.
- 2.7 All reported incidents of harassment will be monitored and in the event of any patterns emerging, management may wish to initiate its own formal investigation and take remedial action where this proves to be necessary. Additionally, there may be situations where the seriousness of an allegation of harassment warrants immediate progression to the formal stage.

3 THE FORMAL STAGE

- 3.1 The formal stage of this procedure may be used where the informal stage of the procedure is not considered appropriate, or if the harassment continues after the informal stage has been used.
- 3.2 Allegations of harassment should be raised as soon as possible but not later than 3 months following an act of alleged harassment so that the matter can be dealt with swiftly and decisively.
- 3.3 Where an allegation of harassment has not been lodged to an Institute/College within such time limits, the Director/Principal will decide if it is just and equitable considering all circumstances for the matter to be dealt with under this procedure. If the allegation of harassment is against the Director/Principal then the Chair of the Governing Body will decide.
- 3.4 While it is preferable that an allegation of harassment should be made in writing to one of the persons named below, this will not preclude the investigation of an allegation of harassment made verbally.
- 3.5 The College/Institute will ensure that, where practicable, employees can raise allegations of harassment, should they wish, with someone of their own gender, religious belief or race or who is aware of and sensitive to disability or sexual orientation issues.
- 3.6 The allegation of harassment should be raised through the formal stage of this procedure as follows. The Complainant may raise allegations of harassment with one of the following who is not connected in any way with the allegation of harassment:

- i. a member of senior management
- ii. Personnel/Human Resources Manager/Officer
- iii. a Harassment Advisor.

Where the allegation is against the Director, the matter should be raised with the Chairman of the Governing Body, or nominee.

- 3.7 The Director/Principal or Chairman acting on behalf of the Governing Body will acknowledge receipt of the allegation of harassment within five working days and advise the Complainant that they have the right to be accompanied at each stage of the procedure by his/her trade union representative or work colleague as appropriate.
- 3.8 The procedure will be completed normally within 20 working days of the allegation of harassment having been received. Where in exceptional circumstances this is not possible and after consultation with the complainant, the procedure will be completed as soon as possible. If any of these time limits are not possible then both parties will be informed of the revised timescale.

4. INVESTIGATION UNDER THE FORMAL PROCEDURE

(i) Making an Allegation of Harassment

- 4.1 In conjunction with the HR Manager, the Director/Principal, or nominee, will nominate the Investigating Officer:
- 4.2 If the allegation of harassment is against the Director/Principal, the Chairman of the Governing Body or his/her nominee will nominate the Investigating Officer
- 4.3 Where the complaint is against these named parties then the Governing Body will appoint another officer.
- 4.4 The Investigating Officer will receive assistance and administrative support from the HR section.
- 4.5 The nominated Investigating Officer must have received appropriate training and be unconnected with the allegation of harassment. In exceptional circumstances, if an Investigating Officer cannot be sourced internally, then the Institute/College must consider the involvement of an individual, from within the sector, who has received appropriate training and is acceptable to the Complainant.

(ii) Investigation Meeting with the Complainant

- 4.6 The Investigation Officer will meet the Complainant to:
 - i. advise the Complainant that they have the right to be accompanied by a trade union representative or work colleague
 - ii. clarify and formally record the nature of the allegation of harassment and that it is being handled under the formal procedure
 - iii. ensure that the Complainant is aware of the next stage of the

procedure

- iv. advise on contact between the Complainant and alleged harasser (Appendix 1)

Avoiding Contact

- 4.7 The issue of avoiding contact between the Complainant and the alleged harasser must be considered before action is taken to inform the alleged harasser of the allegation of harassment. The Investigation Officer will take the appropriate action concerning the avoidance of contact following discussion with the Complainant, including the possibility of transfer if appropriate. Both parties should also be advised that there should be no communication between them, directly or indirectly, in relation to the allegation of harassment.
- 4.8 Where a case of serious harassment has been alleged, consideration will be given to precautionary suspension of the alleged harasser to enable investigation to proceed. This precautionary suspension will be in line with the procedure outlined in the Disciplinary Procedure for Employees in Institutions of Further Education. An individual who is going to be suspended must be formally advised of this at a meeting with the senior member of staff concerned. The individual will have the right to be accompanied at this meeting by a trade union representative or work colleague as appropriate.

(iii) Informing the Alleged Harasser

- 4.9 The Investigation Officer will inform the alleged harasser in writing:
 - i. of the nature of the allegation of harassment
 - ii. confirm that it is being investigated under the formal procedure
 - iii. ensure that the individual is aware of the next stages of the procedure
 - iv. that they have the right to be accompanied by a trade union representative or work colleague
 - v. that an Investigation meeting will be held within 10 working days of the allegation of harassment being received. Where in exceptional circumstances this is not possible, and in consultation with the Complainant and alleged harasser, the procedure will be completed as soon as possible

(iv) The Investigation

- 4.10 Whilst the Investigation Officer will seek to conclude the investigation as quickly as possible, the meetings with all involved need not necessarily follow immediately after each other. Every effort will be made to have held all necessary meetings within 10 working days of the date the allegation of harassment was received. Where in exceptional circumstances this is not possible, and in consultation with the Complainant and alleged harasser, the procedure will be completed as soon as possible.

- 4.11 The purpose of these meetings is to establish the facts. All those giving information to the Investigation Officer do so individually and not in the presence of any other person involved in or present during the alleged incident. A record of all meetings will be kept. All evidence provided to assist with the investigation will be treated as confidential to the investigation subject to any statutory requirements.

Meeting with the Complainant

- 4.12 The Investigation Officer and Human Resource Manager/Officer will meet with the Complainant and consider both what they have to say and any other related matter. The Complainant will have the right to be accompanied and/or represented by his/her trade union representative or work colleague as appropriate.

Meeting with alleged harasser

- 4.13 The Investigation Officer will meet the alleged harasser and hear what he/she has to say about the incident(s) and any other related matter. The alleged harasser will have the right to be accompanied by his/her trade union representative or work colleague as appropriate. This will not be the same person who accompanies and/or represents the Complainant.

Meeting with anyone who can assist with the investigation

- 4.14 The Investigation Officer will meet anyone who can assist with the investigation. This may include supervisors and co-workers and may also include anyone who observed the Complainant's demeanour immediately before and after the alleged incident(s) or any colleague with whom the Complainant discussed the alleged incident(s). Each individual will be asked to outline what happened.
- 4.15 The Investigation Officer may meet the managers/supervisors of both the Complainant and alleged harasser to establish if there has been any history or previous conflict between them and/or with other parties.
- 4.16 The Investigation Officer may then wish to have further meetings to clarify or gain additional information.

Reporting the Facts

- 4.17 The Investigation Officer will prepare a written report outlining the facts, indicating his/her findings and recommending appropriate action as outlined in 4.18 (i), (ii) and (iii). This report will be forwarded to the Director/Principal or the Chairman acting on behalf of the Governing Body or his/her nominee as appropriate.

Decision on Appropriate Action

- 4.18 The Director/Principal or Chairman acting on behalf of the Governing Body or his/her nominee, having considered the written report, will then decide on whether:
- i. the institutes/college's agreed disciplinary procedure should be invoked against any party as appropriate. When an investigation has already been carried out under the harassment procedure, this

report will be used in place of a further disciplinary investigation;

- ii. no further action should be taken; and/or
 - iii. appropriate management action should be taken, e.g. the provision of training or counselling to affected parties as appropriate.
- 4.19 If the alleged harasser is a student and the allegation of harassment, following investigation, is justified, the Institute/College will cross over to the Student Harassment Policy in order to take the appropriate action.

Communicating the Decision

- 4.20 Having made a decision on the most appropriate course of action this will be communicated in writing to both the person who has complained and the person against whom the allegation of harassment was made. A copy of the final report will also be made available to the complainant.

(v) After the Investigation is Complete

Appeals Mechanism

- 4.21 If the complainant wishes to appeal, he/she must inform the [Personnel Office] in writing, stating the grounds of his/her appeal, within ten working days of having received the decision.
- 4.22 The [Personnel Office] should pass the appeal to the person more senior than the one who dealt with the original complaint. This person must invite the employee to attend a further meeting.
- 4.23 The Appeal meeting should take place within ten working days of the Appeal Notification being received by the [Personnel Office].
- 4.24 The employee must take all reasonable steps to attend this meeting.
- 4.25 The complainant has the right to be accompanied by a trade union representative or work colleague
- 4.26 Following the appeal meeting, the person who has dealt with the appeal must inform the employee of his/her final decision, in writing, within ten working of the meeting.

Consideration of Transfer

redeployment if Disciplinary Action is Taken

- 4.27 Where an allegation of harassment has been upheld, the Complainant may wish to avoid any further contact with the harasser. Should the harasser remain in employment with the Institute/College and where it is agreed that further contact between the individuals concerned would be unacceptable, every effort will be made to facilitate this wish. Consideration should always be given to relocating the harasser in the first instance and where transfer of the Complainant occurs, it should not lead to any disadvantages to him/her.

redeployment where Disciplinary Action has not taken place

- 4.28 Where an allegation of harassment is not upheld, or for example where the evidence is inconclusive, consideration may still be given, where practicable, to the voluntary transfer of one of the employees concerned.

5. Further Meetings

- 5.1 A nominated person if appropriate will meet the Complainant on a regular basis to offer support and to ensure that no further harassment or victimisation has occurred. This action will be undertaken even where an allegation of harassment has not been upheld.
- 5.2 The line manager of the harasser will be responsible for ensuring that the harasser is made fully aware of the institute's/college's policies on equal opportunities and harassment and of the law relating to these matters.

6 Records

- 6.1 Except in the event of disciplinary action having been taken against an employee, no record of an individual having been investigated in respect of an allegation of harassment will be retained on the employee's file.
- 6.2 However, the college shall retain a record of each investigation, for reference and statistical purposes

7 Other Formats

- 7.1 This policy will be made available, on request, in alternative formats including in large print, in Braille, on computer disc, on audio-cassette and in minority languages to meet the requirements of those employees who are not fluent in English.