

Title	LWETB Guidance Notes Harassment/Sexual Harassment Prevention Policy
Date	13 th March, 2018
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For Review By	LWETB Board



& CDETБ Craft Unions (e.g. TEEU, INPDU, UCATT and BATU)

Guidance Notes – To accompany the Harassment / Sexual Harassment Prevention Policy - Complaint Procedure for LWETB Staff

Preface

These Guidance Notes are provided by way of an aide both to the parties to a complaint and those involved in administering the process under the Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff – Version: February 2018.

Guidance Notes should always be read in conjunction with the said policy. Wherever a disputed issue may arise with respect to interpretation, the Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff shall have primacy.

These *Guidance Notes* may be subject to review, modification and updates from time to time as may arise on direction of the ETBI/Unions' Consultative Forum.

All references to ETB are understood to comprehend the appropriate Education and Training Board (ETB).

Whether formal or informal, a complaint must be made within six months of the latest incident(s) of alleged harassment/sexual harassment behaviour. In exceptional circumstances, the six-month time limit may be reviewed. The decision on whether to admit a complaint under this procedure rests with the Head of Human Resources in the respective ETB.

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Template A1 – Aide-mémoire for ETB Contact Persons

ETB headed paper

STRICTLY CONFIDENTIAL

Aide-mémoire for ETB Contact Persons

Please note that Contact Persons are available to both complainant and respondent parties. Where the form is used for respondent party/ies, references to complainant and respondent are reversed.

ETB name:	
Name of ETB Contact Person:	
Name of complainant staff member:	
Contact phone number which the complainant staff member is happy to provide	
Date & time of conversation (by phone, in person etc.)	
Conversation No. (X of X)	
Initials of respondent: In the interest of confidentiality please refrain from recording information that may identify other parties.	
Any action taken by the complainant to date (supply details):	

Have you as the Contact Person...

Questions	YES	NO
1. Listened to the complainant's concerns?		
2. Summarised back to the complainant what you understand to be his/her concerns?		
3. Have you informed the complainant in a non-directional manner, of the options available to him/her under the Prevention Policy?		
<i>Option</i> Whether another policy would be more appropriate e.g. the nationally agreed grievance procedure? Any decision in this regard is a matter for the staff member concerned.		

<p><i>Option</i> Mediation – have you explained what is involved?</p>		
<p><i>Option – Employee Assistance Service/Counselling</i></p> <p>About the independent employee assistance service which provides professional guidance and counselling. Have you directed him/her to their website? Have you advised what is involved? Have you provided contact details of the service?</p>		
<p><i>Option</i> To make a formal complaint and the process involved?</p>		
<p>4. Have you mentioned that s/he contact their trade union to discuss their concerns?</p>		
<p>5. Has the complainant indicated that s/he might be willing to engage in one of the options mentioned?</p>		
<p>6. Have you already emailed/posted the complainant a copy of the <i>Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff</i> and other relevant information e.g. on mediation; employee assistance service/counselling, a copy of the nationally agreed grievance procedure etc. If not, have you told the complainant when s/he should expect to receive it?</p>		
<p>7. Have you asked the complainant to revert back to you within the next 2- 3 days having considered his/her options and having had a chance to look at the <i>Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff</i>?</p>		
<p>8. Has the complainant indicated when s/he will revert back to you?</p>		
<p>9. Have you completed this aide memoire?</p>		
<p>10. Have you informed the complainant that you will send him/her a copy of this aide memoire and when s/he would expect to receive it?</p>		
<p>11. Have you explained that this aide-memoire will be retained in a strictly confidential and securely placed file marked “Contact Persons <relevant year e.g. 20XX> and will be destroyed by shredding following a period of six months.</p>		

12. Have you explained that the retention of this information for a period of six months is merely as an aide-memoire to the Contact Person to assist you in the event that the complainant may contact you again within that six-month period?		
13. Have you explained that no other records regarding the conversation will be retained on any other files (e.g. personnel file)?		
14. Have you diarised forward to ensure that you contact the complainant in at least one working week to check in with him/her?		
If so, list the date.		

Date: _____

NOTE: The role of the ETB Contact Person does not extend to intervening or approaching any person on behalf of the staff member.

Retention of Aide-memoire: It is the policy of the relevant Education and Training Board to retain the original copy of the Aide-memoire (as completed by the Contact Person) in a strictly confidential and securely placed file marked “**Contact Persons <relevant year e.g. 20XX>**”. The Aide-memoire is just as its meaning suggests, to refresh the Contact Person’s memory in the event that a further contact to him/her is made on the same issue by the same person within six months. It is the policy of the ETB concerned that the aide-memoire will be destroyed by shredding following a period of six months’ duration from its initial completion.

Do you understand/accept that:

- The process will not assign blame to anyone but will explore and acknowledge how the conflict has evolved.
- The purpose of Mediation is for the individuals in dispute to find their own solutions with the assistance of the Mediator.
- The process is entirely voluntary and will not succeed if the parties are not fully engaged or are unwilling participants.
- The process involves each person speaking while the other listens.
- Following this part of the process there may be some argument and discussion, but within strict bounds.
- Separate meetings can occur any time during the Mediation process to check out a person's concerns, confront unhelpful behaviour, or help people think through their options.
- The discussion will shift toward the future and what will happen from now on.
- The parties agree on an agenda of issues which need resolution.
- The parties will work through each issue on the agenda, generating a number of ideas then weighing, adjusting and testing the alternatives to craft a workable, mutually satisfactory outcome.
- If the parties are able to settle their differences, the Mediator will write a formal agreement containing these decisions. Everyone involved signs and keeps a copy.
- The Mediator may be invited to review the operation of the agreement within a specific period at the request of the parties.
- No full session will exceed 2 hours.
- Most situations should be resolved in 2-3 sessions.
- It will require the parties looking at the wider picture.
- It will require an element of examining one's own behaviour and responses to difficult situations.
- It will require each person to "walk in the shoes of the other" and see the picture from the other person's perspective.
- The goal of Mediation is to help people improve their confidence in handling conflicts and help rebuild a professional working relationship.
- An ultimate workable resolution may require engagement with parties other than those directly involved. *(Please indicate here who you consider might be relevant to the process).*

I have read and understood the above and am willing to engage in the mediation process. If at any stage I am of the view that mediation is not appropriate, I reserve my right to withdraw and exercise other options available to me.

Signed _____
[Insert name]

Date _____

Template B2 – Record of the Outcome of Mediation (Exemplar)

Record of the Outcome of Mediation under the Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff

Name(s) of complainant:

Name(s) of respondent:

Name of Mediator:

Dates of sessions undertaken:

The above-named parties have engaged in a mediated process involving *<X number>* of sessions.

The outcome of these sessions has resulted in:

An agreed outcome

OR

An agreed outcome not being achieved

Mediator's signature: _____

Date: _____

This record should be furnished by the Mediator, to the HR department of the ETB (marked strictly private and confidential for the attention of the Head of HR) and copied to the parties to mediated process.

A copy will be retained on the personnel file of the parties to the process for a period of one year where mediation has been successful. Where mediation has been unsuccessful, a copy will be retained on file until the expiration of Formal Procedure (if invoked) and for a period not exceeding six years thereafter.

Template C – Workplace Harassment/Sexual Harassment Complaint Form

The complaint form must be used on submission of a formal complaint.

Harassment is defined in section 14A (7) of the Employment Equality Act as *any form of unwanted conduct related to any of the discriminatory grounds 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/sexual harassment that is not linked to one of the discriminatory grounds is not covered by the Employment Equality Act¹.

Sexual harassment is defined in section 14A (7) of S14A (7) the Employment Equality Act as *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*².

In essence, sexual harassment is inappropriate and unwanted conduct of a sexual nature. It includes: acts of physical intimacy; requests for sexual favours; any other act or conduct including: words, pictures and gestures constitute sexual harassment if they are unwelcome to the recipient.

Before completing this form, it is recommended that you familiarise yourself with the ETB's *Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff*.

The complaint form must be completed in full. By way of guidance you should have regard to such matters as providing:

- Clear specific allegations against named individual(s)
- Dates and times of incident(s)
- A list of witnesses if any. The complainant is required to submit the names and contact details of witnesses to specific incident/s (if any), in a list as part of the complaint submitted and within the timeframe prescribed by the policy. Only persons who are in position to offer direct evidence in respect of an alleged incident(s) may be nominated by the complainant. Generalised statements in the nature of character references are not witness statements. Copies of witness statements (if any) will be provided to both parties to the complaint in accordance with natural justice and fair procedure.
- Direct quotes, if they can be recalled;
- A brief description of the context of each incident;
- A brief description of the impact/effect each incident had on you;
- Any other relevant supporting evidence.
- Except for mediation, details of previous approaches made to the respondent (if any) and the outcome of same.

¹ Reference Statutory Instrument SI 208/2012

² Reference Statutory Instrument SI 208/2012

You should complete and submit this if you consider your complaint meets the definition of harassment/sexual harassment. Contact details are provided at the end of this form advising to whom you should submit your complaint.

(See overleaf)

1. Personal Details (of the person making this complaint):

Full Name: _____

Workplace Address: _____

Telephone Number: _____

Email Address: _____

2. Person responsible for the alleged harassment / sexual harassment:

Full Name: _____

Workplace Address: _____

Telephone Number: _____

Email Address: _____

3. Working relationship to you:

Manager / Supervisor

Co-worker

Subordinate

4. Harassment / Sexual Harassment Behaviours:

The following are some examples of unreasonable behaviours that may be considered harassment / sexual harassment when part of a repeated pattern of events. Tick any of these that are relevant to you and provide a description of the behaviour/s under '5. Details / Particulars of Alleged Harassment / Sexual Harassment'.

Examples of Harassment

Examples of harassment on any one of the nine grounds set out above, may include, but are not limited to:

Tick as relevant to your complaint	Behaviour	Date(s)
	Treating people less favourably, or subjecting them to ridicule	
	Undermining behaviour	
	Demeaning and derogatory remarks, name-calling	
	Isolation, non-co-operation or exclusion within the workplace	
	Production, display or circulation of offensive material	
	Written forms of harassment – e.g. faxes, SMS messaging, emails, notices, posting messages through social media or any other ICT or electronic device/medium	
	Modifying images, recording digital images for the production and or display on any form of ICT or electronic device/medium (without consent)	
	Intimidatory harassment – e.g. gestures, posturing or threatening poses	

The list is not exhaustive, if you consider that other behaviours constitute harassment in accordance with the definition on page 1 of this form please list them in the blank spaces allotted above.

Examples of sexual harassment

	Sexual gestures	
	Suggestive or indecent remarks or questions	
	Unwanted sexual comments and jokes	
	Leering	
	Unwanted physical conduct such as pinching or inappropriate touching	
	Displaying sexually suggestive and/or pornographic correspondence/images including faxes, emails, websites, SMS messaging, posting messages through social media or any other ICT or electronic device/medium which uses demeaning terminology which is gender specific .	
	Modifying images, recording digital images for the production and or display on any form of ICT or electronic device/medium (without consent)	

The list is not exhaustive, if you consider that other behaviours constitute sexual harassment in accordance with the definition on page 1 of this form please list them in the blank spaces allotted above.

8. Supporting evidence attached to this complaint:

Please list any supporting evidence / documents with this Complaint Form (e.g. emails, diary entries etc.). Supporting evidence / documentation should be specifically referenced in the complaint form and must be relevant to the detail / particulars of the complaint.

9. Additional Information (Do you have any other information relevant to your complaint?):

10. Declaration:

I declare that the information provided in this complaint form is true and correct to the best of my knowledge. I understand that by submitting this completed form that my complaint will now be processed by way of the Harassment / Sexual Harassment Prevention Policy – Complaint Procedure for ETB Staff.

Signature of the person making the complaint: _____

Date: _____

Return this completed form to the Head of Human Resources, <Insert ETB name and contact details>.

*Formal Procedure Stage 1, Harassment / Sexual Harassment Prevention Policy – Complaint Procedure for ETB Staff (Version: February 2018).

Template E2 – Response to Complaint form – Exemplar

Workplace Harassment / Sexual Harassment Response to Complaint Form

The response to complaint form must be used to respond to a formal complaint.

Harassment is defined in section 14A (7) of the Employment Equality Act as any form of unwanted conduct related to any of the discriminatory grounds 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/sexual harassment that is not linked to one of the discriminatory grounds is not covered by the Employment Equality Act³.

Sexual harassment is defined in section 14A (7) of S14A (7) the Employment Equality Act as 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 person⁴.

In essence, sexual harassment is inappropriate and unwanted conduct of a sexual nature. It includes: acts of physical intimacy; requests for sexual favours; any other act or conduct including: words, pictures and gestures constitute sexual harassment if they are unwelcome to the recipient.

Before completing this form, it is recommended that you familiarise yourself with the ETB's Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff.

The form must be completed in full. By way of guidance you should have regard to responding to the complaint details made against you referencing such matters as:

- Responding clearly to the specific allegations made against you
- Dates and times of any relevant incident(s)
- A list of witnesses if any. The respondent is required to submit the names and contact details of witnesses to specific incident/s (if any), in a list as part of the response to complaint form submitted and within the timeframe prescribed by the policy. Only persons who are in position to offer direct evidence in respect of an alleged incident(s) may be nominated by the complainant. Generalised statements in the nature of character references are not witness statements. Copies of witness statements (if any) will be provided to both parties to the complaint in accordance with natural justice and fair procedure.
- Direct quotes, if they can be recalled;
- Your response to each incident alleged;
- A brief description of the impact/effect each incident had on you;
- Any other relevant supporting evidence;
- Except for mediation, details of previous approaches made to the complainant (if any) and the outcome of same.

³ Reference Statutory Instrument SI 208/2012

⁴ Reference Statutory Instrument SI 208/2012

You should complete and submit this form using the contact details provided at the end of this form.

(See overleaf)

4. Witnesses (Please provide contact details of witnesses to the alleged harassment / sexual harassment)

Full Name: _____

Contact number or Email: _____

Full Name: _____

Contact number or Email: _____

Full Name: _____

Contact number or Email: _____

5. Supporting evidence attached to this response:

Please list any supporting evidence / documents with this Response Form (e.g. emails, diary entries etc.).

Supporting evidence / documentation should be specifically referenced in the response form and must be relevant to the detail / particulars of the incident/s alleged in the complaint.

6. Additional Information (do you have any other information relevant to your response to the complaint):

7. Declaration:

I declare that the information provided in this Response to Complaint Form is true and accurate to the best of my knowledge.

Signature of the person making the complaint: _____

Date: _____

Return this completed form to the Head of Human Resources, LWETB, Marlinstown Business Park, Mullingar, Co. Westmeath.

*Formal Procedure Stage 1, Harassment / Sexual Harassment Prevention Policy – Complaint Procedure for LWETB Staff (Version: February 2018).