



Dignity at Work

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1. Introduction

- 1.1. The Commission for Victims and Survivors is committed to equality of opportunity and to creating and sustaining an environment where everyone is treated with respect and dignity, free from any form of inappropriate behaviour, and one in which all employees can give of their best.
- 1.2. Unwanted, unreasonable and offensive conduct can and does occur in any workplace and at any level. It detracts from a productive working environment and can affect health, confidence, morale and performance.
- 1.3. The aim of this policy is to make staff aware of the types of behaviour that might cause offence, to highlight the sources of information and assistance which are available and the procedures for dealing with inappropriate behaviour. There are separate Informal and Formal procedures for resolving complaints under this policy, the details of which are set out in the

2. What type of behaviour may affect dignity at work?

- 2.1. A variety of terms can be used to describe inappropriate behaviours that may impact on a person's dignity at work, including harassment, bullying, discrimination and victimisation.
- 2.2. This policy is deliberately broad in scope and addresses any form of unwanted, unreasonable and offensive conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Conduct shall be regarded as having this effect only if, having regard to all the circumstances and in particular the complainant's perception, it should be reasonably considered as having that effect.
- 2.3. At times the offensive conduct can be unintentional on the perpetrator's part. However, it must be emphasised that it is the impact of the conduct on the recipient and not the intention of the perpetrator that is significant. Staff whose behaviour constitutes harassment, bullying, discrimination or victimisation can be liable for disciplinary action which could lead to their dismissal.
- 2.4. It will always be assumed that complaints have been made in good faith unless there is evidence to the contrary. If it becomes apparent that an accusation was deliberately false, mischievous or vexatious, and was not due to a misunderstanding or genuine mistake, it will be treated as a serious matter and may lead to disciplinary action.

3. Unacceptable behaviour

Harassment

- 3.1. Harassment is unwanted, unreasonable and offensive conduct that is linked to aspects of a person's social identity, in other words gender/gender reassignment, race/ethnic origin, nationality, marital/civil partnership status, religious belief, political opinion, age, disability, sexual orientation, whether or not they have dependants, are pregnant or are on maternity/paternity leave.

Bullying

- 3.2. Where the unwanted conduct is not linked to a person's social identity then it is often referred to as bullying.
- 3.3. There is no legal definition of bullying. However, it is generally accepted that bullying comprises "persistent offensive, abusive, intimidating, malicious or insulting behaviour, which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines his/her self confidence and which may cause him/ her to suffer stress.
- 3.4. It can be carried out by senior staff against more junior staff, by staff of the same grade as the victim(s) or by junior staff against more senior staff".

What is not bullying?

- 3.5. Legitimate, constructive and fair criticism of an employee's performance or behaviour at work is not bullying.
- 3.6. Isolated incidents of unreasonable behaviour such as abruptness, sharpness or rudeness whilst totally unacceptable, should not be described as bullying.
- 3.7. Many of these are legitimate employment relations difficulties that, wherever possible, should be dealt with in the first instance by letting the person know how their behaviour has made you feel.
- 3.8. Only offensive behaviour, which is persistent, should be regarded as bullying.

Discrimination

- 3.9. Discrimination is unlawful when someone is treated less favourably or unfairly compared to others on the grounds of a protected characteristic, in other words their gender (or gender re-assignment), marital/civil partnership status, whether or not they have dependants, are pregnant or are on maternity/paternity leave, religious belief and/or political opinion, race, nationality, disability, age or membership/non-membership of a Trade Union.
- 3.10. It can be direct – when people are treated less favourably because of a protected characteristic, or indirect – when a condition or requirement is applied equally to all but which is harder for one group to meet than another or which has a disproportionate or otherwise detrimental impact on them and cannot be justified.

3.11. A failure to make a reasonable adjustment for a disabled person is also a form of discrimination.

Victimisation

3.12. This policy will also protect staff who make complaints of harassment or bullying and others who give evidence or information in connection with a complaint from victimisation.

3.13. Victimisation occurs where a person who has made a complaint or assisted a complainant under this policy, is treated less favourably than others as a consequence.

Forms of unwanted, unreasonable and offensive conduct

3.14. The following list, while not exhaustive, provides guidance as to the common forms of unwanted, unreasonable and offensive conduct dealt with under this policy;

- (i) Unwanted physical contact, ranging from unnecessary touching or brushing to serious assault
- (ii) Use of verbal or physical threats or abuse, including sectarian, political, racial or sexually derogatory or stereotyped remarks and statements or offensive terminology relating to people with a disability
- (iii) Jokes or remarks that are related to age, that have a lewd, sectarian, racist or disability content, or which contain innuendo or mockery
- (iv) Unwanted, intrusive questioning of a person about their marital status, sexual interests or orientation, age, religious belief, political opinion, race or ethnic origin
- (v) Coercion, including suggestions that sexual favours may further a person's career or that not providing them may adversely affect their career
- (vi) Visual display of pornographic, sexually explicit or suggestive pictures, objects or written material (including the use of e-mail to send such material), political posters, graffiti, obscene gestures, flags, bunting, emblems and the wearing of distinctive clothing or sportswear which may be deemed offensive by others, for example, football, GAA, rugby tops, any clothing containing lewd or offensive images/slogans
- (vii) Isolation and/or non co-operation at work, exclusion from work-related social activities
- (viii) Use of implicit or explicit behaviour to control, influence or affect the career of another person whom they manage or over whom they exert actual or perceived authority
- (ix) Persistent and unreasonable criticism
- (x) Unreasonable demands and impossible targets
- (xi) Refusing to make reasonable adjustments to accommodate a disabled person
- (xii) Refusing annual leave in connection with observance of religious and cultural events such as Islamic Festivals or Chinese New Year without reasonable justification

Work-related social events

- 3.15. Inappropriate behaviour such as those listed above can lead to complaints of bullying or harassment whether they occur at the workplace or at other venues during work-related events.
- 3.16. Recent tribunal cases have made it clear that work related events are considered under the law as a continuation of the workplace and that inappropriate behaviour which occurs at training courses or social events such as Christmas parties, or in the pub after work, can constitute unlawful discrimination in the same way as if it had occurred in the workplace.

4. What can you do if you feel your dignity at work has been affected?

- 4.1. If you feel you have been subjected to unwanted, unreasonable and offensive conduct you should discuss your concerns with someone and explore with them your options for resolving the problem. Work colleagues are obvious sources of help.
- 4.2. You can also speak to your Line Manager (unless this is the person who has caused the problem, in which case you can speak to another person in the Senior Management Team).
- 4.3. All members of SMT are fully conversant with Commission policy and procedures, and are trained to offer support and information to any member of staff who considers that s/he has been subjected to unwanted, unreasonable and offensive behaviour. Another source of help and assistance is your Trade Union representative.

5. What can you do if you are advised that your conduct is offensive?

- 5.1. If you are advised that your behaviour is considered to be offensive, you will probably find this accusation very stressful and upsetting. You can speak to your Line Manager or another member of SMT for advice and/or guidance. You should treat this as a serious matter and do all you can to resolve the situation at an early stage.
- 5.2. If you are approached in this context there are a number of things to consider, including:
 - (i) Remember that if a person feels offended by your behaviour, the feelings are very real to them, therefore try to remain calm and objective, be open and receptive to the comments being made
 - (ii) Do not try to convince the complainant that the complaint is invalid or to withdraw it as this may amount to victimisation
 - (iii) Look at your behaviour to see how it might have given rise to the complaint and how it might be modified

- 5.3. An informal meeting often presents an opportunity to clarify actions or behaviour and an apology, for example, if your behaviour has been misinterpreted, often remedies the situation
- 5.4. You may wish to keep a record of any discussions or meetings that take place subsequent to being approached

6. What can you do if you witness offensive conduct?

- 6.1. All staff have a role in creating and sustaining a working environment in which individuals are treated with dignity and respect. If you witness inappropriate behaviour it is therefore important that you should try to discourage it by;
 - (i) Making it clear that you find the behaviour unacceptable
 - (ii) Showing support to colleagues who suffer such treatment
 - (iii) Reporting the incident to your Line Manager/supervisor or another member of SMT
 - (iv) Making a personal note of what happened. This will be useful if you are later asked to provide information as part of an investigation into a formal complaint

7. Complaints involving individuals outside the Commission or Staff in another Department, Organisation or Agency

- 7.1. Where a complaint involves staff from another Department, Agency or Organisation, it will be handled by the Equal Opportunities Officer in the complainant's department, who will liaise closely with the Equal Opportunities Officer in the alleged offender's department to keep them informed of progress.
- 7.2. As with all complaints it is important that staff involved receive whatever assistance is required. When the investigation is completed, the Commission Equal Opportunities Officer handling the complaint will discuss the outcome of the investigation, and whether or not the complaint should be upheld, with the alleged offender's Departmental Equal Opportunities Officer.
- 7.3. Both Equal Opportunities Officers will ensure that the decision is quickly communicated to all parties. Where a complaint is upheld, the report will be passed to the alleged offender's department who will decide if disciplinary action is appropriate in accordance with normal procedures.

8. Harassment or bullying of staff by members of the public

- 8.1. If you are subjected to offensive conduct by a member of the public, you should report the incident as soon as possible to your Line Manager. As the Commission's representative at local level, it is the manager's responsibility to satisfy him/herself that the complaint is well founded and take steps to ensure that the behaviour is stopped.

- 8.2. The manager should make the member of the public aware that his/her behaviour is unacceptable and must stop. It should be made clear that if the behaviour is not stopped, the member of the public may be excluded from the office and will only be dealt with by telephone or correspondence, or the contact may be suspended or terminated. If necessary a warning letter should be sent.
- 8.3. The manager should keep a record of the incident and the action s/he took to ensure the offensive behaviour was stopped.

9. Staff on Secondment

- 9.1. In all secondments both inward, when staff from other organisations come to work in the Commission, and outward, when Commission staff go to work in outside bodies, the secondment agreement should specifically state the arrangements that will apply in the event of a complaint involving the secondee.
- 9.2. It is expected that in such cases both organisations will jointly agree on who will take the lead in carrying out the investigation.

10. Procedures that apply to complaints outside the scope of this policy

- 10.1. Complaints about a protected disclosure under the Public Interest Disclosure Order (“Whistleblowing”) can be raised under the procedures set out in the Commission’s Whistleblowing Policy.
- 10.2. Separate procedures apply if you wish to appeal against the outcome of action taken under the formal Disciplinary or Inefficiency procedures and are set out in the relevant Commission policies.
- 10.3. A complaint about informal disciplinary or inefficiency action will be treated as a grievance and dealt with under the Grievance procedure set out in the relevant policy.
- 10.4. The Occupational Health Service (OHS) has a process for appealing against a medical retirement decision.
- 10.5. Separate internal procedures apply when dealing with disputes relating to pension matters.
- 10.6. Complaints relating to any employment related matter outside the policies listed above will be dealt with under the Commission’s Grievance procedures

11. Statutory rights

- 11.1. There are various legal remedies available to those who are subjected to unwanted, unreasonable and offensive conduct in the workplace and the procedures accompanying this policy do not prevent staff from exercising those rights.
- 11.2. Should the behaviour constitute a criminal offence (for example assault) then criminal law will apply otherwise the civil remedies below are available.
- 11.3. The common law duty of care requires an employer to provide a safe environment.

12. Anti-Discrimination Legislation

- 12.1. Unwanted, unreasonable and offensive conduct that is based on social identity or protected characteristics, is covered by the following legislation;
 - (i) Sex Discrimination (NI) Order 1976 as amended (gender, marital status)
 - (ii) Fair Employment and Treatment (NI) Order 1998 as amended (religious belief, political opinion)
 - (iii) Race Relations (NI) Order 1997 as amended (colour, race, nationality or ethnic or national origin)
 - (iv) Disability Discrimination Act 1995 (protection for disabled persons against discrimination on the grounds of disability)
 - (v) Employment Equality (Sexual Orientation) Regulations (NI) 2003 (sexual orientation)
 - (vi) Employment Rights (NI) Order 1996 (discrimination on grounds of Trade Union Membership)
 - (vii) Employment Equality (Age) Regulations (NI) 2006 (age)

13. Other Legislation

- 13.1. Where the above legislation is not relevant (in other words, where the unwanted conduct is not related to social identity or protected characteristic) the following legislation may be cited;
 - (i) Health & Safety at Work (NI) Order 1978
 - (ii) Protection from Harassment (NI) Order 1997
- 13.2. There are time limits within which action must be taken and staff who are considering this option should consult their legal advisers.
- 13.3. Other sources of advice include Citizens Advice, the Equality Commission and the Labour Relations Agency.

- 13.4. If the complaint involves sex, sexual orientation, disability, age or racial discrimination the complaint must be lodged with the Industrial Tribunal occurred.
- 13.5. For religious or political discrimination a complaint must be lodged with the Fair Employment Tribunal within three months from the date when the person first knew or might reasonably have been expected that have first known of the act of discrimination, or within six months from the date on which the act was done, whichever is earlier.
- 13.6. However staff should be aware that if they wish to present a claim to a tribunal they will normally be expected to have raised their complaint under the Commission internal procedures and have waited 28 days before lodging a complaint with the tribunal office.

14. Data Protection Act

- 14.1. Under the Data Protection Act you have the right to request information held on you and this may, in certain circumstances, apply for information provided in connection with a Dignity at Work complaint.
- 14.2. On request the Secretary to the Commission will consider supplying information held about the individual making the request. The consent of the person who supplied the information will be sought before any disclosure is made.
- 14.3. However, if consent to disclose information provided by one individual about another is not given, and it is considered necessary to comply with the request for information, anything that would identify the supplier of the information will be redacted (in other words edited for publication).
- 14.4. Further information is contained in the Commission's Information Security and Data Protection Policies

15. Personal Liability

- 15.1. If legal proceedings are invoked then the alleged offender (the respondent) may be held personally liable for acts of unwanted, unreasonable and offensive conduct.
- 15.2. If a member of staff is considered to have been acting outside the scope of his/her duty or this policy, so that the Commission has no legal responsibility, that officer will have to arrange his/her own representation and the Commission will not accept responsibility for compensation or damages.

16. Rights, roles and responsibilities

All Staff

- 16.1. Every member of staff has the right to work in an environment free from unwanted, unreasonable and offensive conduct that may violate his/her dignity or create an

intimidating, hostile, degrading, humiliating or offensive environment. The Commission fully recognises the right of employees to raise a complaint about such behaviour if it occurs and all complaints will be dealt with seriously and as quickly as possible.

- 16.2. Every employee has a responsibility to familiarise themselves with the Dignity at Work Policy and to comply with it.
- 16.3. In addition, there is a legal requirement to comply with the relevant legislation, in other words the Fair Employment and Treatment (NI) Order 1998, the Sex Discrimination (NI) Order 1976, the Employment Equality (Sexual Orientation) Regulations (NI) 2003, the Disability Discrimination Act 1995, the Employment Equality (Age) Regulations (NI) 2006 and the Race Relations (NI) Order 1997.
- 16.4. Employees also have a role to play in helping to create and sustain a working environment in which individuals are treated with dignity and respect. They can contribute to preventing inappropriate behaviour by ensuring that their own standards of conduct do not cause offence and should discourage inappropriate behaviour by others by making it clear that they find such actions unacceptable and by supporting colleagues who suffer such treatment.

Managers/Supervisors

- 16.5. Managers and supervisors have a duty to implement this policy and to make every effort to ensure that unwanted, unreasonable and offensive behaviour does not occur.
- 16.6. Persistent or serious failure on the part of managers or supervisors in this respect will impact adversely on performance appraisals and can, in certain circumstances, give rise to disciplinary proceedings. They should set a good example by treating all staff and customers with dignity and respect. They must act on alleged incidents of unwanted, unreasonable and offensive behaviour, which comes to their attention from whatever source, by taking prompt and appropriate action to end the behaviour.
- 16.7. Managers and supervisors should be fully conversant with this policy and procedures for dealing with complaints and should ensure that staff are also aware of them.
- 16.8. Managers and supervisors should be aware of the services offered by the Commission for both complainants and alleged offenders. This network can also provide advice for managers.
- 16.9. Staff affected by bullying or harassment may be reluctant or nervous about complaining. They may be worried about not being taken seriously, about reprisal, about damaging their career prospects and about creating a bad atmosphere in the workplace.
- 16.10. Managers and supervisors must therefore take steps to quickly resolve any problems in a sensitive manner supporting and reassuring staff as necessary.
- 16.11. Confidentiality must be maintained at all times and the rights of both parties should be respected.

16.12. Following the resolution of a complaint, managers and supervisors will be expected to monitor the situation to ensure that further problems or victimisation of anyone involved does not occur.

Carecall

16.13. The Staff Welfare provider (Carecall) can provide emotional support for anyone involved in a complaint or who may be contemplating this action.

Harassment Contact Officers

16.14. Harassment Contact Officers have been appointed by the Commission to provide guidance, support and advice to those who have been subjected to, or accused of, offensive behaviour. All members of the Commission's Senior Management Team may act as Harassment Contact Officers.

16.15. The same Harassment Contact Officer cannot act for both parties

16.16. The role of the Harassment Contact Officers is to;

- (i) Offer a private and confidential environment to encourage discussion of the alleged incident(s)
- (ii) Discuss with individuals the courses of action open to them, but they will not recommend a particular option unless the information is judged to be so serious that action is required irrespective of the wishes of the enquirer
- (iii) Support individuals through their chosen action
- (iv) Approach the alleged offender on behalf of the complainant if requested
- (v) Monitor and provide statistical reports to the Equal Opportunities Officer
- (vi) Maintain confidential notes of any interviews, which they will retain for one year and will only be released if there is a formal investigation or Tribunal proceedings.

Investigating Officer

16.17. Investigating Officers are appointed under stage 2 of the formal procedures to carry out formal investigations. They are trained in investigation techniques and will interview the parties to a complaint and relevant witnesses. The Commission will refer to an Investigating Officer from OFMDFM if required.

16.18. Following the completion of their enquiries, Investigating Officers will prepare written reports setting out the facts and their conclusion as to whether or not the complaint should be upheld. Reports are submitted to the Commission's Equal Opportunities Officer.

Equal Opportunities Officer

16.19. The Commission's Equal Opportunities Officer (the Head of Corporate Services) will act to ensure that this policy and procedures are properly implemented and operated, and in particular that;

- (i) Details of the policy and procedures are communicated to all staff
- (ii) Appropriate training is provided to make each employee aware of his/her responsibilities
- (iii) Complaints are processed appropriately through informal and formal channels
- (iv) Adequate resources are made available to implement the policy, achieve its objectives and operate the procedures
- (v) Designated staff are given appropriate training to enable them to perform their roles sensitively and effectively

16.20. The Equal Opportunities Officer will carry out preliminary enquiry meetings as part of the formal procedures and on receipt of the investigation report, will decide whether or not to uphold the complaint. They will monitor and review complaints and how they have been resolved on a regular basis in order to ensure that proper standards are being maintained and that the procedures are working effectively. They will also prepare statistical returns in an anonymous format on the incidence of various types of cases to senior management and the Trade Union on an annual basis.