

UNIVERSITY COLLEGE CORK

DUTY of RESPECT and RIGHT to DIGNITY POLICY

UCC POLICY STATEMENT

University College Cork affirms the right of all staff and students to work and study in an environment free from harassment and bullying.

Introduction

1. Harassment and bullying create an unpleasant and ineffective working and learning environment. Such behaviour can damage the self-esteem and health of staff members and students. It is in everyone's interests to prevent and address this behaviour.
2. This Policy applies to all areas of University operations and programmes. It applies to the conduct of all University staff members and students, with respect to conduct that arises in connection with their employment or studies at UCC including circumstances that arise off campus in a UCC connected activity, as well as to the conduct of all vendors, contractors, sub-contractors and others associated with the University.
3. Particular responsibility is placed upon heads of school, department, centres and units, managers and supervisors to ensure that they, and staff members reporting to them, are aware of their responsibilities under this policy and, further, that every effort is made to eliminate any harassment or bullying of which they are aware, amongst their staff and students (using any of the UCC resources provided for this purpose).
4. Ultimate responsibility for the implementation of this Policy rests with the President of the University. Day to day implementation with regard to staff is the responsibility of the Director of Human Resources.
5. The University supports the resolution of complaints, as far as is possible and appropriate, through informal processes. It is expected, though not compulsory, that informal procedures will normally be pursued before resort to the formal complaints procedure. Nothing in this policy should be construed as requiring the complainant to engage in an informal resolution process prior to submitting a formal complaint under the policy.
6. Any formal complaint of harassment or bullying will be promptly and seriously processed. It is recognised that harassment and bullying are very difficult issues to deal with for all concerned. The University undertakes to pursue formal complaints as sensitively as possible, with due regard to the rights of both Complainant and Respondent.
7. The University is committed to identifying and eliminating organisational deficiencies which may contribute to the occurrence of harassment or bullying, and undertakes to review and make improvements in the event that any investigation identifies organisational factors as contributing to a case of harassment or bullying.
8. As an intellectual community, UCC recognises that a balance must be struck between preserving the freedoms of expression and intellectual enquiry, vital to a University

and ensuring that those freedoms are not so abused as to bully or harass members of the University community.

9. It is considered a breach of policy and a disciplinary offence, for any staff member or student to attempt to victimise or otherwise retaliate against an individual because that individual, whether as a witness or complainant or in any other role, participates in good faith in procedures for addressing issues of harassment and bullying.
10. Since complaints of harassment and bullying will be taken very seriously, any attempt to misuse this Policy through the filing of complaints found to be malicious or vexatious may result in disciplinary action pursuant to the University's disciplinary procedures (as specified in the University's Statutes).
11. The Policy will be communicated to all members of the University community and others associated with the University. The Policy will be available on the UCC website and will be communicated to and distributed to new employees in the University's orientation process and in training courses.
12. This Policy is designed to ensure compliance with the following Codes of Practice which are issued under the Safety, Health and Welfare at Work Act 2005, the Industrial Relations Act 1990 and the Employment Equality Act 1998 respectively:
 - (a) *The Health and Safety Authority's Code of Practice on the Prevention and Resolution of Bullying at Work;*
 - (b) *The Labour Relations Commission's (LRC) Code of Practice Detailing Procedures for Addressing Bullying in the Workplace;*
 - (c) *The Equality Authority's Code of Practice on Sexual Harassment and Harassment at Work*
13. Nothing in this Policy is designed to prevent a person from exercising his or her statutory entitlements under the Employment Equality Acts 1998 and 2004 and the Industrial Relations Acts 1946-2004. Complaints under the Employment Equality Acts must be brought within 6 months of the last act of discrimination.
14. Managers and supervisors have a particular responsibility to implement this Policy and to make every effort to ensure that bullying and harassment do not occur. Managers and supervisors have an obligation to deal with any incidents of bullying or harassment of which they are aware.
15. The Policy places a strong focus on mediation. Mediation is subject to the agreement of both parties and involves the parties being brought together to discuss the problem they face with a view to reaching an accommodation that will allow both parties to work together in the future. It is envisaged that as many complaints as possible will be resolved through informal procedures and mediation, with formal investigation being used only where necessary. (See 52 below)

Definitions

16. **Harassment** is defined in section 14A of the Employment Equality Act 1998 (as amended by the Equality Act 2004) as any form of unwanted conduct related to any of the discriminatory grounds, if the conduct has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. The discriminatory grounds, for the purposes of legislation are gender, marital status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community.
17. Common harassing behaviour includes, but is not limited to:
 - (a) Unwelcome physical contact;
 - (b) Inappropriate looks, comments or suggestions;
 - (c) Interfering with or damage to property;
 - (d) Threats or extortion;
 - (e) Comments, gestures, jokes or displaying or circulating offensive material;
 - (f) Hostile attitudes, practices or structures which discriminate against an individual or group of persons.
18. **Sexual harassment** is defined in Section 14A of the 1998 Employment Equality Act (as amended) as any form of unwanted verbal, non verbal or physical conduct of a sexual nature, if the conduct has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.
19. Common sexual harassing behaviour includes, but is not limited to:
 - (a) Verbal or physical advances;
 - (b) Requesting sexual favours;
 - (c) Asking about someone's sexual preferences, fantasies or activities;
 - (d) Repeatedly asking for a date after someone has expressed lack of interest;
 - (e) Unwelcome patting, hugging or touching someone's body, hair or clothing;
 - (f) Making comments, jokes, sexual innuendo, or displaying or circulating offensive and/or pornographic material;
 - (g) Making suggestive or sexual gestures, movements or facial expressions;
 - (h) Making disparaging remarks to someone about his/her gender or body.

20. **Bullying**, whilst not defined in legislation, can have serious effects on the health and welfare of recipients and is therefore regarded as a workplace risk and legislated for under the Safety, Health and Welfare at Work Legislation. The Health and Safety Authority defines bullying as **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 and that is the definition used in this Policy. **An isolated incident of the behaviour described in this definition may be an affront to dignity at work, but as a once off incident is not considered to be bullying.**
21. Common bullying behaviour includes, but is not limited to
- (a) Unreasonably blocking someone's progress or advancement;
 - (b) Persistent picking on someone;
 - (c) Manipulation of someone's reputation;
 - (d) Manipulating the nature of someone's work or the ability of someone to do his/her work (e.g. overloading, withholding information, setting meaningless tasks);
 - (e) Social exclusion or isolation;
 - (f) Unwarranted or constant criticism, preventing someone from speaking, shouting, public reprimands, rages or insults;
 - (g) Unwanted physical contact, physical abuse or threats of abuse to an individual or an individual's property;
 - (h) Undermining an individual's work or self-esteem.
 - (i) Verbal abuse/insults
 - (j) Intimidation
 - (k) Aggression
 - (l) Humiliation
 - (m) Blame for things beyond the person's control
22. It is important to distinguish bullying from other inappropriate behaviours. For example, a once off incident of bullying behaviour may be an affront to dignity at work but is not considered to be bullying. A once off incident of unacceptable behaviour which is prohibited under another University policy, may properly be the subject of complaint and action by the University under that policy.
23. Bullying at work does not include reasonable and essential feedback or constructive criticism or discipline arising from the management of the conduct or performance of

an employee at work, or actions taken which can be justified on grounds such as safety, health and welfare at work. For example, an employee whose performance is justifiably continuously signalled in a proper and reasonable manner as being at a level below required standards may feel threatened and insecure in his/her work but this in itself does not indicate bullying.

24. Fair and constructive criticism of a person's performance, conduct or attendance does not constitute bullying. The monitoring, review and evaluation of performance is an essential part of the management function. All managers are required to carry out appropriate monitoring of the performance of their staff. It is the duty of management to be open with staff about performance, attendance or general conduct.
25. Complaints relating to instructions issued by a supervisor/manager, assignment of duties, terms and conditions of employment or other matters which are appropriate for a referral under the normal Grievance Procedure do not constitute bullying.
26. This Policy will be interpreted with consideration of the fact that behaviour which is acceptable to one individual may be offensive to another. Because a reasonable person standard (see 43 below) is used, members of staff and students are expected to be sensitive to the possibility that behaviour they themselves consider tolerable would be considered inappropriate or hurtful by others.
27. Confidentiality. Statements, letters and other communications shall be confidential to those involved in procedures arising from this policy to the greatest extent possible, compliant with the entitlement of the Complainant and Respondent to full disclosure to them of all relevant documents. At the start of any formal investigation, the Director of Human Resources will inform both parties to a complaint of the necessity to maintain confidentiality and the consequences of a breach of confidentiality. Parties will be required to sign a statement to this effect. Confidentiality extends only to the processing of the complaint under the Policy so that if a complainant seeks redress through the Courts he or she will not be constrained by the need for confidentiality. Inappropriate disclosures may be dealt with under the Disciplinary Procedure (as set down in the University's Statutes). Investigators as part of the formal process, will also remind both parties and any witnesses of the need for confidentiality. If a person requests that information provided to an investigation remain confidential there is no legal duty to maintain confidentiality. Where the investigator is of the view that natural justice requires disclosure, such obligation will override any undertaking of confidentiality.
28. **Director of Human Resources;** In this Policy Director of Human Resources means the senior member of University staff with responsibility for the Human Resources function by whatever name titled.
29. **Staff Ombudsman;** In this Policy the Staff Ombudsman means the member or members of staff of the University who independently facilitate(s) the resolution of staff matters by whatever name titled.

30. **Welfare Contact Person;** In this policy the Welfare Contact Person means the member of staff in the University with responsibility to ensure that staff members have a discreet and available contact point to enable them to have clarity around the support structures available to them. The Welfare Contact Person has a listening brief and may provide the complainant with a copy of the policy, outline the routes available and explain the roles of personnel involved. The Welfare Contact Person does not get involved in any other way in the complaints procedure and is not an advocate for either party.
31. **HR Partner [by whatever name titled];** In this policy the HR Partner is the member(s) of staff in the University with responsibility for liaison on human resources matters between Colleges and units and the Department of Human Resources. Each College or unit is assigned a designated HR Partner.
32. **Other Relevant Definitions** See Section B of the Appendix 1 .

Roles and Responsibilities

Responsibilities of all members of the UCC community

33. All members of the UCC community have a duty to behave and conduct themselves so as to respect the right of others to dignity, courtesy and respect at all times. All members should refrain from engaging in acts of harassment or bullying, and work to deliver a positive environment in which to conduct all university activities.
34. Every member of the UCC community has a duty to safeguard his/her own safety and welfare, and that of his/her colleagues who may be affected by his/her actions, or omissions, while at work or on campus. Therefore each person should not place the safety, health and welfare of colleagues at risk by engaging in harassment or bullying, and where in a position of authority, take the appropriate steps to stop bullying or harassment if or when it occurs.
35. Members of the UCC community should also cooperate by providing any relevant information when an allegation of harassment or bullying is being looked into whether in an informal or formal stage. Any person who believes they are being subjected to harassment or bullying is encouraged and , indeed, expected to address such incidents in line with this policy and to engage in a co-operative manner with any process undertaken with a view to reaching an effective resolution or having the matter fully investigated.

Responsibilities of Heads of College, Heads of Schools or Unit, Managers and Supervisors

36. UCC requires all staff members with management responsibilities, where practicable, to provide and maintain a working environment in which their staff and students are not exposed to hazards, which includes the psychological as well as the physical environment. Managers, and supervisors, have a responsibility to manage in such a way as to protect the safety, health and welfare of employees. This means accepting responsibility for preventing bullying at work and endeavouring to resolve alleged cases of bullying at work in line with this policy.
37. All staff with management responsibility will promote the policy and treat complaints seriously and address them promptly, confidentially and impartially. The emphasis is on promoting as early and informal a resolution as is possible.
38. When a manager has witnessed or been advised of inappropriate behaviour, appropriate remedial action should be taken as outlined in this policy. There is a responsibility on the manager to manage and facilitate a resolution wherever possible.
39. Heads of College, Heads of Unit generally, Managers and Supervisors should provide good example by treating all in the place of work with courtesy and respect. They will also ensure that complainants are not victimised for making a complaint in good faith.

Responsibilities of Human Resources Personnel

40. Human Resources Personnel should:
 - oversee the implementation of the University policy in relation to staff in a fair and transparent manner.
 - raise awareness and develop best practice and policy
 - provide advice and training to Heads of Schools / Areas, Managers and Supervisors on handling bullying and harassment matters.
 - inform staff in relation to the policy and the procedures.
 - provide referrals to the Welfare Contact Person.
 - provide referrals to services e.g., the EAP, Occupational Health.

Responsibilities of Trade Unions

40. Trade Unions have a role to play in providing information, advice, support and representation to members who feel that they are being bullied or harassed or against whom complaints have been made. The Policy requires representatives to co-operate with efforts by Heads/ Supervisors/Managers to resolve complaints through the Policy.
41. If the complaint is referred for formal investigation, representatives are required to co-operate fully with attempts to conduct the investigation fairly and without undue delay.

Application of this Policy to Staff

42. The procedure set out in this document is a staff procedure. This procedure will be utilised wherever an allegation of breaching the Duty of Respect and Right to Dignity Policy is made against a UCC staff member. Where a UCC staff member makes allegations against any non-UCC persons interacting with the University, the University will take appropriate action. Where the person complained of/respondent is a student, student procedures apply. See the University's Student Rules: <http://ocla.ucc.ie/LegalAffairs/Oct2010.pdf>. For research students, the Policy on Resolution of Difficulties for Postgraduate Research Students applies <http://www.ucc.ie/en/media/Policy-on-Resolution-of-Difficulties-for-Postgraduate-Research-Students.pdf>
43. This Policy is intended to perform a deterrent and corrective function, in order to prevent members of the University community from being subjected to behaviour which they find harassing or bullying in nature. Those involved in interpreting, administering, and applying this Policy will use a reasonable person standard, that is to say whether a person in the same position as the Complainant and of the same relevant characteristics as the complainant would reasonably judge the conduct complained of to be bullying or harassment.

Informal Procedure

44. Under the informal procedure, the primary aim is not to determine whether an actual violation of the Duty of Respect and Right to Dignity Policy has occurred, but rather, in a non-confrontational way, to attempt to restore a working relationship between the parties such that the matter of concern can be resolved to the satisfaction of both parties and without attributing blame or fault. Informal resolution could comprise, for example, of an apology from the person against whom the complaint was made, agreement by the person complained of 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.
45. If the Complainant is a student, he/she should contact the Student Advisor and Ombudsman, or the Head of his/her academic department.

Sources of Advice

46. If the Complainant is a member of staff, the University expects him/her to contact their direct supervisor unless the supervisor is the person against whom the complaint is being made or where for good reasons the complainant cannot pursue their complaint through the line management structure.
47. Each College/Central Service has a dedicated HR Structure and the complainant may contact his/her assigned HR Partner.
48. A staff member can contact the Welfare Contact person to seek initial confidential, informal information on the support structures/ routes available to address any incident of alleged bullying and/or harassment in the University.

49. The complainant may wish to contact a recognised trade union representative.

Informal Routes to Resolution

50. The following routes are available to the Complainant in attempting to have the Complaint resolved informally:
- (a) If a member of staff or a student finds the behaviour of another person who is a member of staff unacceptable for a reason set out in this Policy, he/she is strongly encouraged to tell that person as soon as possible that the behaviour concerned is unacceptable, and ask that person not to repeat it. If the member of staff or student affected clearly communicates the message that he/she finds particular behaviour unacceptable, that can reduce the potential for the behaviour to be repeated or develop into a pattern.
 - (b) If appropriate to do so, the Complainant should approach his/her immediate supervisor or Head of Department to negotiate a solution and monitor the situation or for referral to a more suitable source of assistance.
 - (c) The relevant HR partner may, with the agreement of both parties attempt to resolve the issue(s) informally in accordance with this Policy. In the event however, that the HR Partner has advised either party with respect to the dispute, the HR Partner may have no role in informal resolution.
 - (d) The Complainant may bring matters to the attention of a recognised trade union representative.
 - (e) The University expects the Complainant to bring matters to the attention of the Independent Staff Ombudsman ["ISO"] before invoking the formal procedure (<http://ocla.ucc.ie/ADR/ISO.pdf>).

Note: *The route to informal resolution given in this policy is not sequential. That is, a staff member does not need to commence at item (a) and proceed through to (d). It is expected, however, that a staff member seeking resolution of difficulties will not engage in more than one route to informal resolution at any one time.*

51. In certain circumstances, on the recommendation of the ISO and with the agreement of the parties, an independent mediator may be engaged to assist in resolving the matter. The mediator, following discussions with the parties will set a timescale for the procedure.
52. Mediation is the preferred method for the resolution of complaints of bullying and harassment which are not capable of being resolved by the parties themselves or by local management. The objective of mediation is to resolve the matter speedily and confidentially without recourse to a formal investigation and with the minimum of conflict and stress for the individuals involved. Mediation requires the voluntary participation and co-operation of both parties in order to work effectively. An assigned mediator will meet with both parties, usually separately to begin with, to discuss the alleged offending behaviour. The mediator will then bring both parties together with a view to reaching a common understanding and agreement on acceptable future

behaviour. A mediated agreement seeks to reach an accommodation between the parties and thereby restore harmonious working relations. Minimal paperwork and/or records will be generated by this process. If the mediation process does not produce a satisfactory outcome, the Complainant may seek to have the matter resolved through formal investigation. Any information that emerges during the course of the mediation process remains strictly confidential and without prejudice to the parties and cannot be disclosed as part of the formal investigation.

Formal Procedure

53. In general, Complainants will be expected to have attempted to resolve their concerns through the informal procedure before resorting to the formal procedure. (See 5 above) If the issue is not, or cannot be resolved, through the informal procedure or is of such a gravity as to render the informal procedure inappropriate, or, if after the informal procedure the conduct complained of continues, or is repeated, the formal procedure may be invoked.
54. Formal complaints should be lodged with the Director of Human Resources as soon as possible following the conduct complained of. The complaint should be clearly formulated in writing. The Complainant should give precise details of actual incidents of alleged harassment or bullying, including, where possible, witness names and times and dates of alleged incidents. To the greatest extent possible, a complaint of harassment or bullying will be handled in confidence. However, it is not possible to guarantee anonymity to persons who report harassment, sexual harassment or bullying or who participate in an investigation because the principles of natural justice require that a person who is accused of harassment, sexual harassment or bullying (the Respondent) be notified of the complaint and be given a fair opportunity to respond to the complaint.
55. Where, by reason of the lapse of time between an event or events complained of or some of the events complained of and the date of the investigation, the investigator(s) concludes that, by reason of the lapse of time, there is a significant risk that an injustice could be done to the Respondent, whether by reason of the unavailability of witnesses or documents or a deterioration in the recollection of witnesses or of the complainant or the Respondent, it is open to the investigator(s) to discontinue the investigation and to advise the University of the discontinuation and the reasons therefor.
56. The complainant will be advised of the aims and objectives of the formal process, the procedures and time frame involved, and the possible outcomes. He/she will be provided with details of the University's Employee Assistance Programme. He/she will be given a copy of the Duty of Respect and Right to Dignity Policy.
57. The Director of Human Resources will notify the Respondent in writing within 5 working days that a complaint of harassment and/or bullying has been made against him/her. He or she will be assured of the University's presumption of his or her innocence of any wrongdoing at this juncture. He/she will be advised of the aims and

objectives of the formal process, procedures and time frame involved and the possible outcomes. He/she will be provided with details of the University's Employee Assistance Programme. A meeting will be organised at which he/she will be given a copy of the complaint in full and any relevant documents including a copy of the Duty of Respect and Right to Dignity Policy. He/she will be advised that he /she will be afforded a fair opportunity to respond to the written allegation. He/She will be given a copy of the complaint and will be requested to respond to the complaint in writing within 10 working days. Once a response is received, the Director of Human Resources will forward copies of both the complaint and the response to the complaint to the President for his attention.

58. The President will direct such action by the parties as he considers appropriate to resolve the situation
59. Where the President considers that a formal investigation is necessary to establish the facts, events or circumstances, two or more investigators will be appointed by the President to conduct an investigation into the complaint. The investigation will be conducted in accordance with the Appendix of this Policy. The investigation will be governed by clear terms of reference and based on the written complaint. The terms of reference shall specify the following:
 - (a) the investigation will be conducted in accordance with this Policy;
 - (b) the timescale within which the investigation will be completed. The investigators may set time limits for completion of various stages of the procedure to ensure the overall timescale is adhered to;
 - (c) the scope of the investigation, i.e. the investigators will determine whether or not the behaviour complained of falls within the definition of bullying/harassment, whether the complaint has been upheld and may recommend an appropriate course of action in the circumstances.
60. In certain circumstances, where there may be a risk to the safety, health or welfare of any individual, the President may take interim measures to remove a party or parties from the situation. This will be without prejudice to the outcome of any investigation or other process directed by the President.
61. The Investigators will prepare a Report in accordance with the procedures set out in the Appendix. This Report will be forwarded to the President. The President will send a copy of the Report to both parties. All aspects of the investigation, including the report and findings, must be treated as confidential by all parties concerned. Breach of confidentiality by a party to the investigation shall be deemed to be a serious breach of this Policy which may result in the invoking of disciplinary proceedings under the University's Statutes.
62. Should the finding be that either harassment or bullying did occur, or that the complaint was malicious or vexatious, the President may invoke the University's disciplinary procedures as contained in the University's Statutes.

63. Should the President decide that the disciplinary procedure should not be invoked, the President may, recommend or direct that the Respondent engage in training, counselling and/or a period of monitoring and appraisal. If, in the opinion of the President, satisfactory improvement has not been demonstrated by the Respondent during this period of appraisal, the disciplinary procedure (as set down in the University's Statutes) shall then be invoked.
64. It should be noted that where a complaint is not upheld by the formal investigation, this does not necessarily indicate that the complaint is malicious or vexatious. While a malicious or vexatious complaint will generally be treated as misconduct under the University's Disciplinary Statute, the application of this provision should not be such as to deter employees from bringing forward legitimate complaints.
65. Should any person holding an office specified as playing a part in these procedures be themselves subject to these procedures, the President will nominate an appropriate person to assume the relevant authority in their place.
66. Should the President be the subject of a complaint, these procedures will be appropriately adapted by the Governing Body to enable the application of due process.
67. Where formal disciplinary procedures are invoked by the President on foot of an Investigation Report under this policy, the right of appeal of the person subject to the disciplinary procedures will be as set out in the University's disciplinary procedures in the University's Statutes and not as described in the procedures below.
68. Where formal disciplinary procedures are not invoked, if either Complainant or Respondent is dissatisfied with the decision of the President on the matter, he/she may, within 10 working days of confirmation of the decision on the formal complaint, appeal the decision in writing to the Deputy Corporate Secretary, stating the grounds for the appeal.
69. The Deputy Corporate Secretary shall nominate a senior officer of the University, who has not previously been involved in the complaint and who is not a member of the unit of any party involved, to hear the appeal.
70. The appeal shall focus only on the aspect of the case cited by the appellant as being the grounds for the appeal.
71. The appellant shall be invited to an appeal meeting and must take all reasonable steps to attend.
72. The University officer hearing the appeal will advise the appellant of the decision, normally within 15 working days of the appeal hearing. This decision will be final in so far as the University's internal procedures are concerned.

APPENDIX 1

PROCEDURES FOR THE INVESTIGATION of FORMAL COMPLAINTS under the DUTY OF RESPECT AND RIGHT TO DIGNITY POLICY

A Guiding Principles

The Investigation of a complaint under the Duty of Respect and Right to Dignity Policy will be based on the following general principles:

A1 Good Faith. The application of these procedures shall be fair, prompt, impartial, reasonable, consistent and applied without discrimination.

All parties will be heard with courtesy and respect.

A2 Confidentiality. Statements, letters and other communications shall be confidential to those involved in the procedure to the greatest extent possible, compliant with the entitlement of the Complainant and Respondent to full disclosure to them of all relevant documents. At the start of a formal investigation, the Director of Human Resources will inform both parties to a complaint of the necessity to maintain confidentiality and the consequences of a breach of confidentiality. Parties will be required to sign a statement to this effect. Confidentiality extends only to the processing of the complaint under the Policy so that if a complainant seeks redress through the Courts he or she will not be constrained by the need for confidentiality. Inappropriate disclosures may be dealt with under the Disciplinary Procedure (as set down in the University's Statutes). Investigators will also remind both parties and any witnesses of the need for confidentiality. If a person requests that information provided to an investigation remain confidential there is no legal duty to maintain confidentiality. Where the investigator is of the view that natural justice requires disclosure, such obligation will override any undertaking of confidentiality.

A3 Representation. At any hearing under these procedures the Complainant and Respondent shall be entitled to be accompanied, as specified below.

B Definitions

B1 "Complainant" means any person making a complaint under this Policy

B2 "Respondent" means the person against whom a complaint is made under this Policy.

B3 "Representation" means the involvement of a colleague of the employee's choice, an officer or member of a Representative Association, but not any other person or body unconnected with the University in representing the interests of an employee at each stage in this procedure.

B4 "Representative Association" means the trade union or entity chosen by an employee, and recognized by the University, to represent his or her interests with respect to terms and conditions of employment and staff matters

C Process

Investigators appointed by the President under this Policy will adopt the following procedure:

C1 The Complainant and Respondent shall be advised that the President has decided to establish a formal investigation.

- C2** The Complainant and Respondent shall be advised that an investigation is to be held and that he/she will be required to attend.
- C3** Both parties will be given copies of all relevant documentation prior to and during the investigation process, i.e.
- (a) Complaint
 - (b) Written response from the Respondent
 - (c) Witness statements (if any)
- C4** Failure to attend by either the Complainant or the Respondent without good and sufficient reason may lead to a decision being taken in his/her absence.
- C5** The Complainant and Respondent shall be advised of the following:
- (a) the names of the Investigators
 - (b) his or her right to representation at the hearing, in accordance with B.3 and B.4 above;
- C6** Both the Complainant and Respondent shall be entitled to receive ten days notice of any meeting unless they agree to shorten the notice.
- C7** The Investigators may call any witnesses that they deem necessary for the purpose of conducting their investigation.
- C8** Both the Complainant and the Respondent may provide details of witnesses or any other person whom they believe could assist in the investigation.
- C9** The investigators will conduct separate interviews with the Complainant and the Respondent with a view to establishing the facts surrounding the allegations.
- C10** The investigators will interview any witnesses to the alleged incidents of bullying/harassment and other relevant persons.
- C11** Persons may be required to attend further meetings to respond to new evidence or provide clarification of any of the issues raised.
- C12** The investigators will form preliminary conclusions based on the evidence gathered in the course of the investigation and invite any person adversely affected by these conclusions to provide additional information or challenge any aspect of the evidence.
- C13** Principles to be observed by the investigator:
- (a) the investigator must avoid discussing the case with any person, either within or outside of the workplace, other than those with whom he or she must speak in the course of the investigation and to the HR Director in relation to procedures.

- (b) during the course of the investigation, the investigator should not indicate her or his views to anyone with regard to the credibility or otherwise of:
 - (i) the complaint itself, or
 - (ii) the evidence given by the Complainant, the Respondant or of any witnesses.

C14 Due regard must be had at all stages of the investigation to the rights of the Complainant, the Respondent and any witnesses, particularly their constitutional right to the protection of their good name, bearing in mind that a complaint is no more than an allegation unless and until the facts have been satisfactorily established by the investigation.

C15 Every effort should be made to complete an investigation within a three month period from the appointment of the investigator. Priority must be given to an investigation in order that deadlines are complied with. Where it becomes clear that a deadline will not be met, both the Complainant and the Respondent should be informed that the investigation is ongoing. The deadline shall not be extended except by decision of the investigators at their sole discretion. Where the investigators consider that further time is required to allow for the proper completion of the investigation and the preparation of a report, the investigator may decide to extend the time limits. The investigators shall inform both parties and the Director of Human Resources in writing of the decision to extend the time limits.

C16 Failure to co-operate with the investigative process may be considered a disciplinary matter to be dealt with under the Disciplinary Procedure (as set down in the University's Statutes).

C17 If a Complainant withdraws a complaint or refuses to co-operate in the investigation, the investigators may decide to end the investigation and make a finding of 'no case to answer'.

D Conduct of the Meetings

D1 Any witness whom the Respondent or Complainant wishes to nominate for interview must be identified to the Investigators not later than 5 working days prior to the hearing to allow adequate notice of the hearing to be given to that person.

D2 The Complainant and Respondent shall be met separately.

D3 The Investigators shall commence proceedings in each case by outlining the procedure to be followed and the issues to be considered at the hearing.

D4 The Complainant shall be required to outline his/her complaint or allegation(s) at the hearing.

D5 The Respondent shall be called and shall be given an opportunity to respond to the complaint or allegation(s).

D6 The investigators may ask such questions as they consider appropriate of any of the parties or witnesses.

D7 The Complainant, Respondent and /or witnesses may be recalled for further questioning.

D8 Where the investigators consider that some other witness should be heard to enable them consider the matter fully, or that some other information should be produced, they may defer the completion of the investigation to allow that to happen

E Deliberations and Report

E1 The Complainant, Respondent and their respective Representatives shall not be present during deliberations of the Investigators.

E2 The investigators shall deliberate on the complaint, on any documents presented and on the content of the meetings and prepare a report to the President. This report shall include an account of the investigation, their finding on all the relevant facts, events or circumstances referred to them and may include the investigators' recommendations. Each of the Complainant and the Respondent will be given a copy of the Report.

E3 The decision of the Investigation shall be based on the standard outlined in Section 43 of this Policy.

F Malicious or Vexatious Allegations

In the event that the Investigators find that a malicious or vexatious allegation has been made, that finding shall be reported to the President.

G Record of Investigation

The report to the President shall constitute the record of the investigation from the investigators.

H Report of Investigation

The Investigators shall forward their report to the President.

I Retention of Records

A report which contains a finding that bullying or harassment did occur will be retained on the Respondent's Personnel file. If a complaint is not upheld no record will be placed on the Respondent's Personnel file.

Version	2
Approved by:	Date
University Management Team Operations	19 December, 2011
Governing Body	14 February, 2012