



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



cetb

Bord Oideachais agus
Oiliúna Chorcaí
Cork Education and
Training Board

GUIDANCE NOTES

To accompany the *Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff*

Nationally agreed for implementation on 1 September 2016

The *Guidance Notes* should be read in conjunction with the *Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB 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*.

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 (at national level) or in line with best practice or legislative requirements.

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 bullying behaviour. In exceptional circumstances, the six month time limit may be reviewed. The decision on whether to admit an allegation under this procedure rests with the Head of HR of the ETB.

Issued by the ETBI/Unions' Consultative Forum

For application from 1 September 2016

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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.

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

Have you as the Contact Person...

<i>Questions</i>	<i>YES</i>	<i>NO</i>
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.		
<i>Option</i>		

Mediation – have you explained what is involved?		
<p><i>Option – Employee Assistance Service/Counselling</i></p> <p>About the independent employee assistance service which provides professional guidance and counseling. 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></p> <p>To make a formal complaint and the process involved?</p>		
4. Have you mentioned that s/he contact their trade union to discuss their concerns?		
5. Has the complainant indicated that s/he might be willing to engage in one of the options mentioned?		
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?		
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> ?		
8. Has the complainant indicated when s/he will revert back to you?		
9. Have you completed this aide memoire?		
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?		
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.		
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.

(To be signed by the parties when engaging in mediation)

Assessment Agreement

of [insert name]

for mediation as an appropriate remedy for conflict at work

“WITHOUT PREJUDICE”

What is your desired best outcome? *(Please insert your own hopes here)*

Do you want the conflict to end?

Yes

☐

No

☐

Do you accept that the Mediator will not take sides?

Yes

☐

No

☐

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 persons 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 _____

Date _____

[Insert name]

TEMPLATE LETTER 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 LETTER C – Workplace Harassment/Sexual Harassment Complaint Form

<Insert ETB LOGO>

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 (1 September 2016)*.

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.

You should complete and submit this only if 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 below)

¹ Reference Statutory Instrument SI 208/2012

² Reference Statutory Instrument SI 208/2012

1. PERSONAL DETAILS (of the person making this complaint)

FULL NAME

WORKPLACE ADDRESS

TELEPHONE NUMBER

AND EMAIL ADDRESS

2. PERSON RESPONSIBLE FOR THE ALLEGED HARASSMENT/SEXUAL HARASSMENT

FULL NAME

WORKPLACE ADDRESS

TELEPHONE NUMBER

AND 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 favorably, 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	
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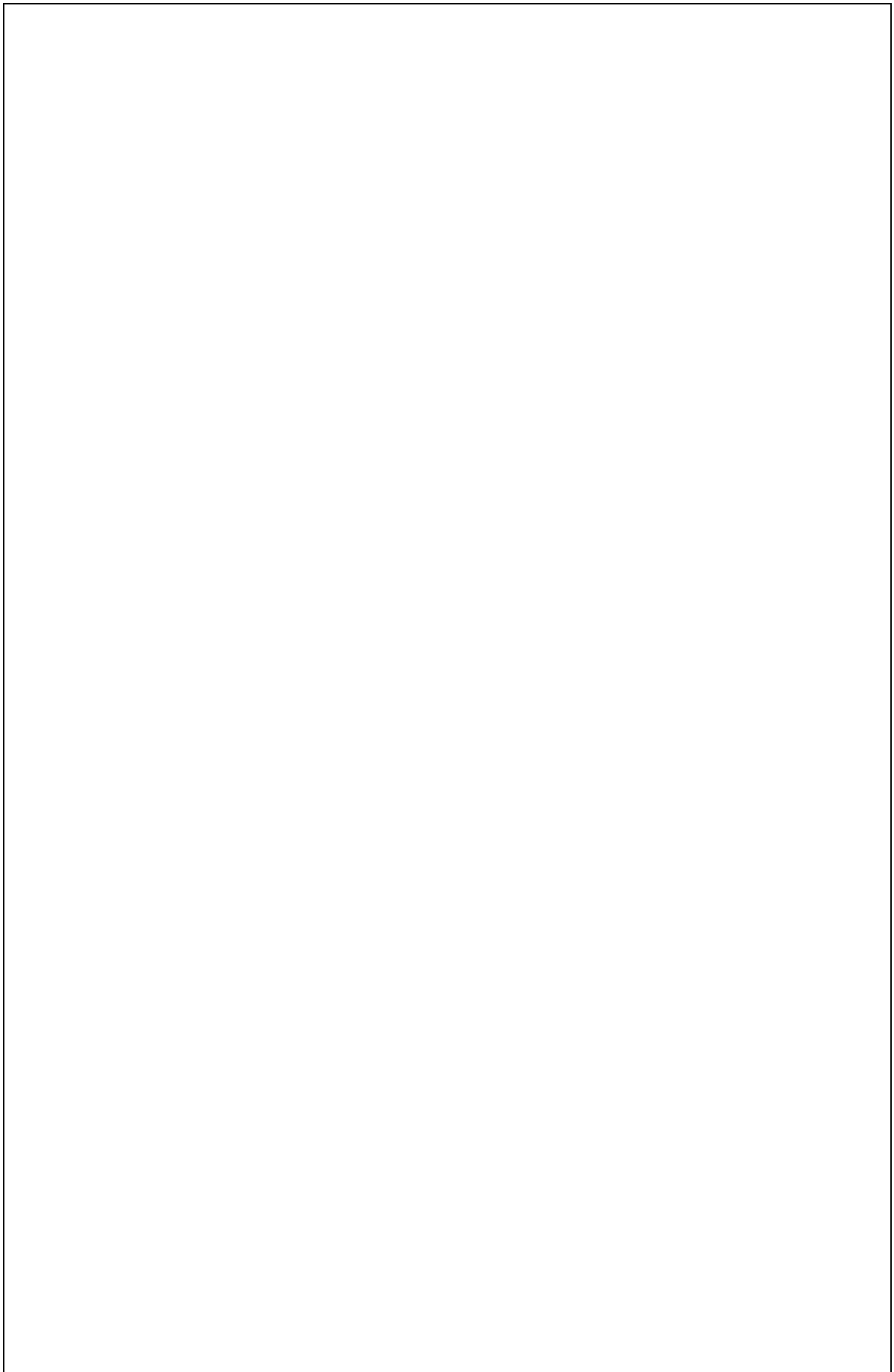
	Suggestive or indecent remarks or questions	
	Unwanted sexual comments and jokes	
	Leering	
	Unwanted physical conduct such as pinching or inappropriate touching	
	Displaying sexually suggestive and/or pornographic correspondence/images including faxes, emails, websites, SMS messaging, posting messages 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)	

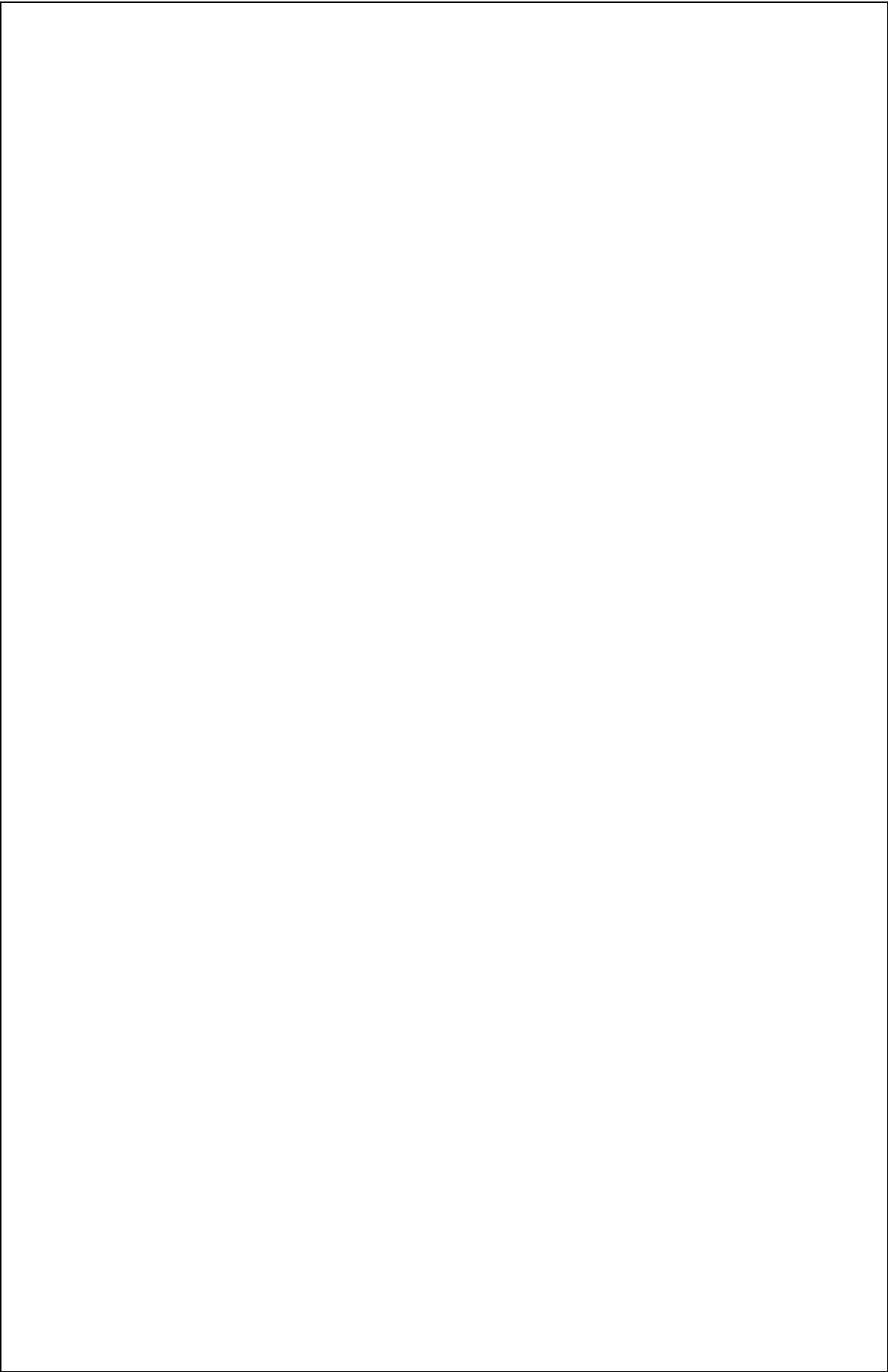
The list is not exhaustive, if you consider that other behaviours constitute sexual harassment in accordance with the definition on page 1 of this form please list them in the blank spaces allotted above.

5. DETAILS/PARTICULARS OF ALLEGED HARASSMENT/SEXUAL HARASSMENT (who, what, where, when and how i.e. the impact/effect each incident had upon you)

Please attach additional pages if necessary.

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6. WITNESSES (please provide contact details of witnesses to the alleged harassment/sexual harassment)

FULL NAME (below)	CONTACT NUMBER OR EMAIL
<hr/>	<hr/>
FULL NAME	CONTACT NUMBER OR EMAIL
<hr/>	<hr/>
FULL NAME	CONTACT NUMBER OR EMAIL
<hr/>	<hr/>

7. LOCAL MANAGEMENT

Have you reported this matter to anyone else? ☐ YES ☐ NO

If **YES**, whom did you report the matter to and what has happened since the report was made?

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 (1 September 2016)*.

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 (1 September 2016)*.

<Insert ETB LOGO>

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 person**⁴.

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 (1 September 2016)*.

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;

³ Reference Statutory Instrument SI 208/2012

⁴ Reference Statutory Instrument SI 208/2012

- Except for mediation, details of previous approaches made to the complainant (if any) and the outcome of same.

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

(See overleaf)

1. PERSONAL DETAILS (of the person responding to the complaint)

FULL NAME

WORKPLACE ADDRESS

TELEPHONE NUMBER

AND EMAIL ADDRESS

2. WORKING RELATIONSHIP TO YOU OF THE PERSON MAKING THE COMPLAINT TO YOU

☐

MANAGER/SUPERVISOR

☐

CO-WORKER

☐

SUBORDINATE

3. RESPONSE TO THE PARTICULARS OF ALLEGED *HARASSMENT/SEXUAL HARASSMENT*: (Please provide full and specific responses to each claim contained in the Complaint Form, providing a full explanation, including the names of witnesses*, if any.

Please attach additional pages if necessary.



4. WITNESSES (please provide contact details of witnesses)*

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 Respondent

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 (1 September 2016).

TEMPLATE K – Timeframes in the procedure

PROCESSING A FORMAL COMPLAINT		
Correspondence/Documentation	Timescale	Corresponding parties
Formal complaint in writing submitted by the complainant. This should be completed using the dedicated Workplace Harassment/Sexual	Within 10 working days of the conclusion of any mediation undertaken	Submitted to the Head of HR in the ETB

<p>Harassment Complaint Form available in Template C of the Guidance Notes which accompany the policy or directly from the ETB HR department and shall include details prescribed in accordance with Stage 1, paragraph 1, Formal Procedure.</p>	<p>OR;</p> <p>Directly into the Formal Procedure</p>	
<p>Head of HR reviews the Workplace Harassment/Sexual Harassment Complaint Form received to establish if the complaint is adequate for processing.</p> <p>Where the complaint form and supporting documentation (if any) are adequate for processing, the Head of HR issues Template D1 formally acknowledging receipt of complaint & advising right to be accompanied by a work colleague or trade union representative.</p> <p>Where the complaint form and supporting documentation (if any) are not adequate for processing, the Head of HR issues Template D2.</p> <p>Once the complaint form and supporting documentation (if any) are returned and are considered adequate for processing, the Head of HR issues Template D1 to the complainant.</p>	<p>Template D1 issues within 5 working days from receipt of the complaint form in writing</p> <p>Template D2 issues within 5 working days from receipt of the complaint form in writing</p> <p>N.B. An investigation shall not proceed and the timeframes documented in the procedure shall not activate until such time as the Head of HR (save where s/he is a party to the complaint) confirms that the complaint form is adequate for processing and meets the essential provisions of stage 1, paragraph 1 of the Formal Procedure.</p>	<p>From Head of HR back to Complainant</p>
<p>Once template D1 is discharged, template E1 i.e. formal letter to respondent enclosing completed Complaint Form and supporting evidence/documentation</p> <p>Respondent is advised of right to be accompanied by a work colleague or trade union representative and is referred to Template E2 of the Guidance Note and/or supplied with a copy of the Response to Complaint Form for completion.</p>	<p>Issues within 5 working days of template D1 (confirming complaint form and supporting documentation is adequate for processing) is discharged by the Head of HR</p>	<p>From Head of HR to the Respondent</p>
<p>Respondent invited to respond in writing to the complaint.</p>	<p>Respondent has 10 additional working days from date of issue of template E1 to respond to the complaint details.</p> <p>i.e. 10 additional working days from the date of issue by the ETB, of the complaint details to the respondent party.</p>	<p>Respondent submits response to the Head of HR in the ETB within the 10 additional working days</p>
<p>Upon receipt of the completed Response to Complaint Form and documentation, the Head of HR completes the sRFT and issues same to the OGP.</p> <p>The Head of HR consults with the CE regarding the requirements for the</p>	<p>Concurrently the Head of HR progresses the sRFT and issues to the OGP.</p>	<p>Internal to HR</p>

<p>investigation team (1/2 investigators/gender balance etc.)</p> <p><i>NB: Two investigators having regard to gender balance are required in all alleged harassment complaints.</i></p> <p><i>One investigator is required for investigations of bullying. The discretion lies with the ETB as to whether an additional investigator may be required for particularly complex cases.</i></p>		
Copy of the completed Response to Complaint Form and supporting documentation is also sent to the complainant (Template E3)	Undertaken simultaneous to the further 10 working days referenced under item 5 of the <i>Harassment/Sexual Harassment Prevention Policy</i>	
OGP conducts the tender and awards	Estimate of 2 weeks from its receipt of the sRFT but this can vary	Internal to OGP
OGP issues services contract to successful Framework Member/investigation company for review and signing		OGP to Investigation Company
<p>Upon receipt from the Framework Member/investigation company, the OGP issues the services contract to ETB as Framework Client for review and signing.</p> <p><i>Where queries may arise, the OGP should be contacted directly.</i></p>		OGP to ETB
<p>Once signed by both the ETB and investigation company, the ETB issues templates G1, G2 and a signed copy of the services contract to the investigator/s appointed.</p> <p>G1: Letter from ETB to investigator/s appointed enclosing all documentation relevant to the investigation. Note all attachments required including the copy of the signed services contract as completed by both parties</p> <p>G2: Sample statement for investigator/s to complete on conclusion of investigation</p> <p><i>Where queries may arise, the OGP should be contacted directly.</i></p>	Within a further 3 working days from establishment of the services contract	ETB to investigator/s at business address
<p>Head of HR writes to parties to complaint advising the name of Investigation Company and investigator/s to undertake Formal Stage 1 investigation (template H).</p> <p><i>In the exceptional case of a conflict of interest arising, the parties to the complaint shall contact the ETB who will consult with the OGP.</i></p>	Issues within 3 working days of the establishment of the services contract	Head of HR to the parties to the complaint
THE INVESTIGATION		

Investigator/s conducts investigation in accordance with the specified terms of reference (and protocol as amended for the conduct of investigations) – Appendix 2 refers.	ETB to cross-check that the investigation report includes statement that the investigation has been undertaken in accordance with the terms of reference and protocol i.e. G2	
Investigator/s issues final report to the Head of HR plus a statement of adherence to the terms of reference and protocol.	Final report to issue no later than 60 working days from the date of establishment of the services contract	From investigator/s to Head of HR
Investigator/s similarly issues final report to the parties to the complaint	Final report to issue no later than 60 working days from the date of establishment of the services contract	From investigator/s to parties to the complaint
Upon receipt of the final investigation report, the Head of HR furnishes a copy of the investigation report to the Chief Executive of the ETB	.	From Head of HR to CE of ETB or person so nominated to undertake this function where CE is a party to the complaint
STAGE 2 – DECISION OF CE TO ACCEPT/REJECT INVESTIGATION REPORT		
CE (on behalf of ETB) has a total of 15 working days from date of issue from the investigator/s of the Final signed Investigation Report to evaluate, make a decision to accept/reject the Investigation Report and issue a written decision to the parties to the complaint.	<p>15 working days to communicate decision of CE</p> <p>Timeframe starts from date of issue from the investigator/s of the Final signed Investigation Report to the Head of HR.</p> <p>The CE communicates the decision as to whether to accept or reject the investigation report.</p> <p>Within this timeframe – CE and HR have discretion to meet with the investigator/s to ensure they are satisfied that the investigator/s has met terms of reference.</p> <p>In coming to a judgement, the CE shall have due regard to the procedures undertaken over the course of the investigation and, the discharge of the terms of reference by the investigator/s.</p> <p>Pay particular regard to being able to respond to the potential for a procedural appeal under the specified appeal grounds (noted in Appendix 3).</p>	
Where investigation report is adopted :	CE composes a brief letter confirming that following considerable reflection and review of the investigation report, other documentation including the statement supplied by the investigation team and meeting/ consultations with them, s/he has decided to accept the investigation report supplied. This	

	<p>determination was achieved on the basis that the terms of reference and protocol for the conduct of the investigation was sufficiently carried out in accordance with the terms of reference and protocol for the conduct of investigations under Appendix 2 of the <i>Harassment/Sexual Harassment Prevention Policy</i>.</p> <p>Provide a rationale for this decision and examples e.g. timeframes adhered to; investigation robustly executed; natural justice and fair procedure applied etc. <i>*In particular, check appeal grounds in Appendix 3 of the policy</i></p> <p>Include reference to provision for appeal within 15 working days as referenced in the attached cover note from HR (i.e. template J refers).</p>	
Where investigation report is rejected :	<p>CE composes a brief letter confirming that following review of the investigation report, other documentation including the statement supplied by the investigation team and meeting/ consultations with them, s/he has decided to reject the investigation report supplied. This determination was achieved on the basis that the terms of reference for the conduct of the investigation as attested to by the investigator/s, have not been adequately adhered to/carried out sufficiently in accordance with Appendix 2 of the <i>Harassment/Sexual Harassment Prevention Policy</i>.</p> <p>Provide a rationale for this decision and examples – look at where breaches may have occurred e.g. timeframes; sequence of interviews etc. <i>*In particular, check appeal grounds in Appendix 3 of the policy</i></p> <p>List option decided upon i.e.</p> <p>Option (a): Determine that the matter be investigated ab initio from Formal Stage investigation.</p> <p><i>The Head of HR will be contacting the OGP and a new tender process be commenced for the appointment of new investigator/s</i></p> <p>Option (b): Determine that the parties engage in an alternative third party dispute resolution facility. The agreement of both parties is required in such circumstances and this would in</p>	

	<p>no way prejudice the right of either party, if unsuccessful, to have the process re-commenced formally ab initio pursuant to the agreed Policy.</p> <p>Include reference to provision for appeal within 15 working days as referenced in the attached cover note from HR (i.e. template J refers).</p>	
<p>HR issues template J and letter of determination from CE to the parties to the complaint.</p> <p>Advises in cover letter of right of appeal to an external third party on the specific appeal grounds and in accordance with Appendix 3 of the actual policy.</p>	15 working days of the date of issue of the final investigation report to the Head of HR.	CE issues decision and rationale plus covering correspondence for right of appeal.
The decision of the CE shall complete the internal process		
In the event of an appeal, the investigator/s shall meet with the CE and his/her nominees to inform the employer response to appeal.		
STAGE 3 – APPEAL OF INVESTIGATION REPORT		
An appeal can only be taken in response to the CE's adoption of the findings of the Investigation Report and under the provisions of the specified appeal ground that the terms of reference for the investigation were not adhered to.	15 working days from the date of issue by the CE (refer template J) to accept the findings of the investigation report) for either party to appeal	Appellants have to submit and management has to respond on the basis of the forms supplied
Appeal form/s come in from appellant/s into Head of HR by recorded delivery marked private and confidential.	Head of HR has 3 working days to issue by recorded delivery copies to the Appeal Officer	<p>HR sends copy of the Appeal Form and documentation to Appeal Officer</p> <p>HR notifies non-appellant party that an appeal has been lodged.</p> <p>HR provides a copy of the appeal to the CE</p>
When the Head of HR receives an appeal the ETB has a total of 15 working days from postal date receipt by ETB of the appeal documentation to submit its response	15 working days for ETB Appeal Response Form to be submitted	<p>HR sends ETB Appeal Response Form with documentation to: Independent Appeal Officer and copied to other party to appeal.</p> <p>ETB Appeal Response Form is completed and any supporting documentation (which should be clearly referenced to</p>

		correspond with the appeal response elements)
Appeal Officer undertakes initial paper review to determine if appeal submitted complies with the grounds for appeal.	In either case, the decision of the Appeal Officer is final.	
If it is determined that the appeal complies, an oral hearing will be arranged.	<p>Appeal takes place and 20 working days for Appeal Officer to issue decision.</p> <p>Outcome of appeal issues: CE of the ETB will take appropriate action based on the findings of the appeal and such action may include initiating the appropriate disciplinary procedure for the staff member/s concerned.</p>	Responsibility of this nominated person (in the ETB) having consulted with the Appeal Officer, to make all necessary practical arrangements for the hearing on the specified date including advising the parties to the appeal (in writing and/or by phone) of the details of the date, time and venue arranged.
If it is determined that the appeal does not comply, the Appeal Officer advises the parties to the appeal by phone/email/letter.	No further action will be taken by the Appeal Officer and the decision of the CE (as employer) to adopt the investigation report stands.	Appeal Officer shall provide a statement to rule on the appeal and a rationale for same. This is circulated to the parties to the appeal.
	Head of HR advises non-appellant party of the outcome of the appeal.	
	Thus concludes the entirety of the process including appeal.	
	Recourse to making a complaint under statutory provisions apply.	

Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff

(Reference: HSHPP Appeal Form)

APPEAL FORM

Please note that appeal provisions extend to a procedural appeal only.

You are required to familiarise yourself again with the terms of reference for the conduct of the investigation and comply with the terms of reference governing this appeal detailed in the *Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff (Appendix 3)*.

Section A – Personal Details

Name: _____

Address: _____

Telephone: _____ Mobile: _____

Email contact address: _____

ETB: _____

(Place of employment e.g. school/college/centre/office): _____

Parties to original complaint: _____ v _____

Parties to this appeal: _____ v _____

(Named ETB)

Section B – Notice of Appeal

I hereby give notice of appeal against the decision of the ETB's acceptance of the findings of the Investigation Report (*dated X*) arising from a complaint lodged under the nationally agreed *Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff* (1 September 2016). I agree to be bound by the outcome of the appeal process provided under the said policy.

Signed: _____ Date: _____

Section C – Appeal Ground

The terms of reference for the investigation were not adhered to

☐

With respect to your appeal, please summarise **below** how, in your opinion, the terms of reference for the investigation were not adhered to. Please make reference to the page and/or extract from the investigation report to support your appeal (*maximum 1000 words in total*).

Supporting evidence to the appeal may be separately appended but must clearly reference the page number and/or extract from the Investigation Report as appropriate.

<i>Appeal</i>	<i>Insert details below</i>	<i>Insert reference to Investigation Report page number and /or extract as appropriate</i>
<i>Appeal Issue 1</i>		
<i>Appeal Issue 2</i>		
<i>Appeal Issue 3</i>		
<i>Appeal Issue 4</i>		
<i>Appeal Issue 5</i>		
<i>Appeal Issue 6</i>		

Please return this completed form by recorded delivery, marked **“Private and Confidential- for the attention of the addressee only”** to the Head of HR of the ETB.

Where the Appeal Officer determines following an initial review of the appeal, that an oral appeal hearing is appropriate, you will be so advised of the date of the hearing.

Where the Appeal Officer determines following an initial review of the appeal, that an appeal is not appropriate, you will be advised accordingly. **The decision of the Appeals Officer will be final.**

OFFICIAL USE BY ETB

Date Appeal Received: _____

Received by: _____

ETB APPEAL RESPONSE FORM

You are required to comply with the terms of reference governing this appeal as detailed in the *Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff* (Appendix 3)

Section A – ETB Details

ETB: _____

Address: _____

Contact name (Head of HR) _____

Contact name (CE) _____

Email contact address: _____

Telephone _____ Mobile _____

Appellant parties: _____ v _____ (named ETB)

Original complainant parties: _____ v _____

Section B – Notice of Appeal

I hereby provide the ETB's response to the appeal raised by (insert name of appellant party) arising from an appeal lodged to the Appeal Officer under the nationally agreed *Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff* (1 September 2016). I agree to be bound by the outcome of the appeal procedure provided under the said policy.

Signed: _____

Date: _____

<Name of CE>

Section C – Response to grounds for appeal

RESPONSE TO APPEAL

Please summarise your response **below** with respect to the appeal lodged alleging “the terms of reference for the investigation were not adhered to”. Please make reference to the page and/or extract from the investigation report to support your appeal (*maximum 1000 words in total*)...

Supporting evidence to the appeal may be separately appended but must clearly reference the ETB’s defence in respect to the appeal issues raised in the appellant’s form (***HSHP Appeal Form***) and reference, as appropriate to the response, the page number and/or extract form the Investigation Report as appropriate.

<i>Appeal sub-number</i>	<i>Insert details of the ETB’s response below</i>	<i>Insert reference to Investigation Report page number and /or extract as appropriate</i>
<i>Appeal Issue 1</i>		
<i>Appeal Issue 2</i>		
<i>Appeal Issue 3</i>		
<i>Appeal Issue 4</i>		

<i>Appeal Issue 5</i>		
<i>Appeal Issue 6</i>		

Please append to this form, a copy of the statement undertaken by the Investigator/s confirming that:

- The terms of reference of the investigation was, in its view, followed.
- The ETB's communication to the parties to the complaint advising that it accepts the findings of the Investigation Report arising from the complaint lodged under the *Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for ETB Staff (nationally agreed for implementation from 1 September 2016)*.

- Please return this completed form marked **"Private and Confidential- for the attention of the addressee only"** to the Appeal Officer (*at the WRC address*).
- A copy should also be forwarded marked **"Private and Confidential"** to the appellant.
- All should be forwarded by recorded delivery no later than 15 working days from receipt of the appeal by the Head of HR.

Where the Appeal Officer determines following an initial review of the appeal, that an oral appeal hearing is appropriate, you will be so advised of the date of the hearing.

Where the Appeal Officer determines following an initial review of the appeal, that an appeal is not appropriate, you will be advised accordingly. **The decision of the Appeal Officer will be final.**

OFFICIAL USE ONLY BY ETB

Issued by: _____ Name of ETB: _____

Date of issue (by recorded delivery) to the Appeals Officer: