



Working Together To Create A Positive Working Environment

**This booklet outlines the Policy and Procedures of the Garda Síochána
for dealing with Harassment, Sexual Harassment
and Bullying in the Workplace**

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PREFACE

We are pleased to introduce this policy and procedures guide in relation to Harassment, Sexual Harassment and Bullying which was produced on a partnership basis with representatives from all the staff associations and Garda management.

This policy comes into operation on 1 November 2007 and replaces the previous policy outlined at Chapter 6 in the Garda Síochána Code.

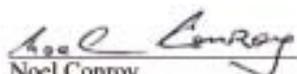
This new policy is designed to ensure compliance with the Employment Equality Acts 1998 and 2004, the Safety Health and Welfare at Work Acts 1989 and 2005 and the three codes of practice issued by the Equality Authority, The Health and Safety Authority and the Labour Relations Commission. It is also designed to provide the knowledge and information to managers to ensure best practice.

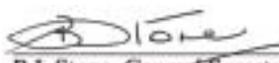
One of the main objectives of the policy is to achieve a safe and harmonious working environment that encourages and supports the right to dignity at work. Overall the policy has a strong emphasis on prevention to ensure the working environment is one where people are valued for their individuality and diversity. It is also designed to provide managers with the knowledge required to discharge their management function in a professional manner.

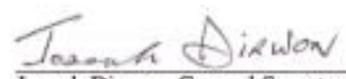
These procedures allow for a mediator to be engaged where the parties agree to this. They also provide for a new appeals mechanism and for a case to be reviewed by an external expert, if this is warranted.

Very often inappropriate conduct can best be resolved through informal procedures, rather than invoking a formal investigation. Regardless of whether there is a formal or informal investigation the matter must be dealt with in a prompt and professional manner to avoid any further distress to the parties involved.

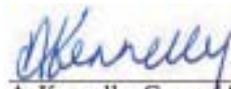
We recognise that training is essential to equip managers, equality advisers and staff representatives to discharge their functions and to operate this policy in an effective manner. In this regard a parallel training programme has been developed and will be delivered at management workshops, promotion courses and divisional continuous professional development schools. In addition all staff will be briefed on this policy by an appropriate line manager.

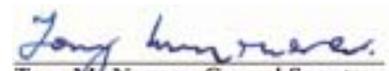

Noel Conroy
Commissioner

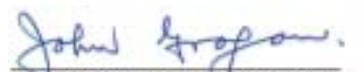

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1 November 2007

I.0 THE LEGAL CONTEXT

This Chapter gives an overview of the legislation that applies to Harassment, Sexual Harassment and Bullying in the workplace.

I.1 Introduction

There is now a range of legislation that deals with ensuring a persons right to dignity in their working life. The legislation and the associated codes of practice have relevance for the Garda Síochána from a legal and a good practice perspective.

As an employer, the Garda Síochána is obliged to fulfil its statutory obligations under the Employment Equality Acts 1998 and 2004, the Equal Status Act 2000, and the Safety Health and Welfare at Work Act 1989 and 2005.

In developing this document consideration has been given to the legislation and the associated codes of practice.

I.2 The Employment Equality Acts 1998 and 2004

The Employment Equality Acts 1998 and 2004 outlaw harassment, sexual harassment, and victimisation in the workplace or in the course of employment. These Acts also contain provisions that sexual harassment and harassment by reference to an individual's relevant characteristic, in the workplace or in the course of employment, constitutes discrimination by the employer. The characteristics covered include the nine grounds; gender, marital status, family status, age, race, sexual orientation, religion, disability or membership of the Traveller community.

The Acts also provide that an employer may be held liable for any sexual harassment or harassment committed by employees or by 'customers or other business contacts. It places a particular onus on employers to take such steps as are reasonably practicable to ensure the work environment is free of harassment and sexual harassment and where it does occur compels employers to address the matter speedily.

The Acts also provide for the establishment of the Equality Authority. It has a range of functions including providing information and, in certain cases, may assist individuals in seeking redress from their employer, where it considers there has been discrimination and harassment within the terms of the Act. A person may refer their case to the Equality Tribunal. The Equality Tribunal will investigate cases (except those resolved through mediation) and will

¹ Sexual harassment and harassment based on any discriminatory ground, of the customer by the service provider, is prohibited by Section 11 of the Equal Status Act 2000.

issue a decision, which is binding and enforceable through the Circuit Court. All decisions may be appealed to the Labour Court within 42 days of issue.

A statutory code of practice (S.I. No.78 of 2002) on Sexual Harassment and Harassment at Work has been prepared by the Equality Authority. Its purpose is to provide practical advice to employers in relation to their roles and obligations under the Employment Equality Act 1998 and the Equal Status Act 2000.

1.3 Safety, Health and Welfare at Work Acts 1989 and 2005

While some employment and industrial relations statutes have a bearing on Workplace Bullying, nevertheless there is no specific legislation on this topic. The main statutes that relate to Bullying include The Safety, Health and Welfare at Work Act 2005 and the Industrial Relations Act 1990.

The Safety Health and Welfare at Work Acts refer to the employer's responsibility to ensure that in as far as is reasonably practicable, the working environment is free from danger to the health, safety and welfare of employees. There are also duties conferred on employees to protect their own health, safety and welfare and that of their co-workers or those who might be affected by another's actions, or omissions, while at work. To comply with the Act, employers – including the Garda Síochána – must also include in their Safety Statement an identification of the hazards and a risk assessment in relation to the existence of Workplace Bullying.

In 2002, The National Authority for Occupational Safety and Health (now the Health and Safety Authority, HSA) produced a code of practice entitled "Code of Practice on the Prevention of Workplace Bullying". This code was replaced on the 1 May 2007 by the "Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work". The purpose of this code of practice is to provide practical guidance to help identify instances of bullying in the workplace. It also advises on ways to put in place preventative measures to stop bullying from occurring and how to deal with cases when they arise.

1.4 Industrial Relations Act 1990

In 2002 a statutory code of practice on Workplace Bullying entitled "Code of Practice detailing Procedures for Addressing Bullying in the Workplace" (S.I. No. 17 of 2002) was prepared by the Labour Relations Commission as provided for under the Industrial Relations Act 1990. It sets out, for the guidance of employers, employees and their representatives, procedures for addressing allegations of workplace bullying.

1.5 Relevance of Codes of Practice

While the codes of practice referred to above are guides for the prevention of Harassment, Sexual Harassment and Bullying in the Workplace it is important to note that they are admissible in evidence which gives them legal status. The Equality Tribunal, the Labour Court or the Circuit Court, in hearing cases, will examine the various codes of practice in assessing the practice and approach of the employer in fulfilling their responsibilities under the various Acts.

This policy is intended to provide general guidance for members of the Garda Síochána on the salient provisions of the law and should not be regarded as a definitive legal interpretation.

Nothing in this policy is designed to prevent a person from exercising their statutory entitlements under the Employment Equality Acts 1998 and 2004.

Note: For the purpose of this policy the term ‘member’ should be interpreted as meaning a member of the Garda Síochána, a trainee Garda or a Reserve Garda.

Civil Servants are covered by their own policy on Harassment, Sexual Harassment and Bullying and it can be found on the Department of Finance website or alternatively it can be obtained by contacting the Civilian Human Resource Directorate.

Please notify Garda Human Resource Management in the event of a formal complaint being made by a civilian member of staff against a member of the Garda Síochána or vice versa. This does not apply to informal complaints, which may be resolved locally between the parties.

2.0 A POSITIVE WORKING ENVIRONMENT

This Chapter outlines the policy of the Garda Síochána and the behaviour that is expected of members of the Service.

2.1 Policy Statement

It is the policy of the Garda Síochána that every employee has the right to be treated with dignity and respect and to carry out their duties in an environment that is free from harassment, sexual harassment and bullying.

Sexual harassment, harassment and bullying will not be tolerated within the Garda Síochána and can lead to disciplinary action.

Workplace bullying, harassment and sexual harassment undermine professional working relations and adversely affect the service that the Garda Síochána provides to the public as it can lower morale and result in stress and absenteeism. It also has a negative effect on other members who may not have been directly subjected to bullying, harassment or sexual harassment but who may have observed it or have been made aware of it.

This policy is designed to protect staff from harassment, sexual harassment and bullying whether it is carried out by a manager or a work colleague, a service provider or other business contact. Any such behaviour is totally unacceptable, and is in many instances unlawful, and will not be tolerated in the Service. Risk assessments will be carried out by Garda management taking account of current legislation. All recorded incidents of bullying, harassment and sexual harassment will be closely monitored and audited at Human Resource Management (HRM) by persons competent in this area. The purpose of the risk assessments is to identify where unacceptable behaviour has occurred and to put in place remedial action to ensure that it does not occur again.

The Garda Síochána is committed to the development and maintenance of a positive working environment. An essential component of such an environment is treating colleagues with the respect and dignity they deserve.

A positive working environment places obligations on management but also places responsibilities on all members to refrain from engaging in unacceptable behaviour and where it occurs to challenge and expose it. A positive working environment is not created merely through the introduction of policies on harassment, sexual harassment and bullying. Each individual has a responsibility to ensure that such policies have real effect in the workplace.

The policy on harassment, sexual harassment and bullying is underpinned by the following rights and responsibilities of all:

- the right of every member of staff to a work environment that is free from harassment, sexual harassment and bullying;

- the right to fair and prompt procedures in dealing with allegations of harassment, sexual harassment and bullying and for allegations to be dealt with in as confidential a manner as possible;
- the responsibility of each individual to treat colleagues with dignity and respect and refrain from harassment, sexual harassment and bullying;
- the responsibility of each individual to support this policy on harassment, sexual harassment and bullying by bringing instances where such behaviour has occurred to attention at an early stage, not making spurious or frivolous complaints and co-operating with an investigation whether as the aggrieved person, a witness or a person against whom a complaint has been made;
- the responsibility of management to create a culture in the workplace that is based on dignity and respect for all employees including acknowledging and valuing the diversity of employees across the nine grounds covered by the equality legislation.

As in all matters of discipline, it is the responsibility of all ranks to ensure that proper standards are maintained in the workplace and supervisors have a particular duty to ensure that harassment, sexual harassment or bullying does not occur in their work areas. Any form of harassment, sexual harassment or bullying is a risk to health and safety, consequently supervisors have a responsibility to take steps to minimise the risk, as they do with other hazards.

Where relationships involve preferential treatment or the improper use of rank or position, then there is likelihood that the work environment will be impacted in a negative way. The consequences of such behaviour may result in lower morale and decreased productivity.

Since harassment, sexual harassment or bullying often entail an abuse of power, supervisors may have a responsibility for the misuse of the authority they have delegated. The inappropriate use of rank is not acceptable and will not be tolerated. The exercise of good judgement and common sense, particularly on the part of more senior officers, should ensure that situations like this do not arise.

Instances of bullying, harassment and sexual harassment will be treated seriously and will be dealt with in accordance with disciplinary or criminal procedures, where appropriate.

3.0 HARASSMENT

This Chapter provides a definition and gives examples of the many forms of behaviour that may constitute harassment.

Harassment is defined as any form of unwanted conduct in relation to any of the discriminatory grounds that could reasonably be regarded by an employee as offensive, humiliating or intimidating and includes spoken words, gestures or the production, display or circulation of written words, pictures or other material.

The harassment has to be based on the relevant characteristic of the person. These are:

- Gender: man, woman or a transsexual person.
- Marital status: single, married, separated, divorced or widowed.
- Family status: responsibility as a parent or as a person in *loco parentis* in relation to a person under 18, or as a parent or the resident primary carer of a person over 18 with a disability which is of such a nature as to give rise to the need for care or support on a continuing, regular or frequent basis.
- Sexual orientation: heterosexual, bisexual or homosexual. A liaison officer will be appointed to provide direct assistance to any member who has been subjected to harassment as a direct result of their sexual orientation.
- Religious belief: includes different religious background or outlook, including absence of religious belief.
- Age: over the age of 18 years (15 years in relation to vocational training).
- Disability: includes people with all physical, sensory and intellectual disabilities and mental health issues.
- Race: race, colour, nationality or ethnic or national origin.
- Membership of the Traveller community.

In cases where the inappropriate behaviour is not linked to one of the nine discriminatory grounds then it is not covered by the above definition of harassment.

Harassment may be targeted at one employee or a group of employees. It may be a single incident or repeated inappropriate behaviour. Harassment extends to situations where the person does not have the relevant characteristic but the harasser believes that they have that characteristic.

An act of harassment may occur outside of normal working hours provided the perpetrator was acting in the course of employment, for example, at a training course, conference or work related social event.

Many forms of behaviour may constitute harassment. The following are examples and are not exhaustive.

- Verbal harassment: jokes, comments, ridicule or songs of a derogatory nature.
- Written harassment: including faxes, text messages, emails or notices.
- Physical harassment: jostling, shoving or any form of assault.
- Intimidatory harassment: gestures, posturing or threatening poses.
- Visual displays such as posters, emblems or badges.
- Isolation or exclusion from social activities.

The Act provides that different treatment of a person in the workplace or in the course of employment because of rejection or acceptance of harassment constitutes discrimination by the victim's employer in relation to the victim's conditions of employment.

The fact that an individual has previously agreed to the behaviour does not stop them from deciding that it has now become unwelcome. It is the unwelcome nature of the conduct which distinguishes harassment from friendly behaviour which is welcome and mutual. Where a person finds any behaviour unwelcome they should point this out to the perpetrator, if at all possible. The intention of the perpetrator is irrelevant. The fact that the perpetrator has no intention of harassing an employee is no defence. **The effect of the behaviour on the employee is what is important.**

Any member, who makes a complaint of harassment, will not be victimised or subjected to the disciplinary regulations, provided the complaint is made bona fide. Similarly any member who gives evidence in proceedings or lends support, in a bona fide manner, to another member will not be victimised or subjected to the disciplinary regulations.

4.0 SEXUAL HARASSMENT

This Chapter provides a definition and examples of the many forms of behaviour that constitute sexual harassment.

Sexual Harassment is defined under the Employment Equality Acts 1998 and 2004 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. Such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material.

The Employment Equality Acts 1998 and 2004 outlaw same-sex, sexual harassment.

Sexual harassment may consist of a single incident or repeated inappropriate behaviour. It may be targeted at one employee or a group of employees.

The following are some examples of inappropriate behaviour which may constitute sexual harassment. These examples are illustrative but not exhaustive.

Physical conduct of a sexual nature. This may include unwanted physical contact such as unnecessary touching, patting or pinching or brushing against another person's body; assault and coercive sexual intercourse.

Verbal conduct of a sexual nature. This includes unwelcome sexual advances, propositions or pressure for sexual activity; continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome; unwanted or offensive flirtations, suggestive remarks, innuendoes or lewd comments.

Non-verbal conduct of a sexual nature. This may include the display of pornographic or sexually suggestive pictures, objects, written materials, emails, text-messages or faxes. It may also include leering, whistling or making sexually suggestive gestures.

Sex-based conduct. This includes conduct that denigrates or ridicules or is intimidatory or physically abusive of a person because of their sex such as derogatory or degrading abuse or insults which are gender related.

An act of sexual harassment may occur outside the work premises or normal working hours provided the perpetrator was acting in the course of employment, for example, at a training course, conference or work-related social event.

It is the unwanted nature of the conduct that distinguishes the behaviour from normal workplace relationships that are based on mutual respect and trust. However, consent is something that is actively given as opposed to "passively going along with the situation".

In a group situation, it is important to realise that not all individuals may be willing participants in discussions on sexual matters or normal workplace banter. Care needs to be taken not to cross the line between apparent harmless actions and sexual harassment. All members are expected to be conscious of various sensitivities and to use common sense and good judgement when in group situations. The fact that an individual has previously agreed to the behaviour does not stop them from deciding that it has now become unwelcome. In any case a member of the Service should desist immediately when a colleague indicates that such behaviour is unacceptable. The intention of the perpetrator is irrelevant. The fact that the perpetrator has no intention of sexually harassing an employee is no defence. **The effect of the behaviour on the employee is what is important.**

The Employment Equality Acts 1998 and 2004 provide that different treatment of a person in the workplace or in the course of employment because of rejection or acceptance of sexual harassment constitutes discrimination by the victim's employer in relation to the victim's conditions of employment.

Any member, who makes a complaint of sexual harassment, will not be victimised or subjected to the disciplinary regulations, provided the complaint is made bona fide. Similarly any member who gives evidence in proceedings or lends support, in a bona fide manner, to another member will not be victimised or subjected to the disciplinary regulations.

5.0 BULLYING

This Chapter provides a definition and outlines some of the more common behaviours that can be associated with bullying.

A statutory definition of bullying does not exist, however, the term is used to describe certain forms of unacceptable behaviour. The Government Task Force on the Prevention of Workplace Bullying 2001 recommends the following definition;

Workplace bullying is 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. 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.

Research has shown that bullying impacts on job satisfaction, job opportunities, relationships, and general quality of life.

5.1 Who Bullies?

Bullying can be perpetrated by a person in authority, a colleague, group of colleagues or a junior member of staff, against a person at any level in the workplace. It can also be perpetrated by a client, contractor or other business contact. The perpetrator may be the same sex or the opposite sex to the victim.

It is each member's responsibility to bring any incident of bullying to the attention of a supervisor, who should ensure that the issue is dealt with satisfactorily, as set out within the Policy and as instructed through training.

5.2 What Is Not Bullying

Bullying must be distinguished from the proper use of authority which is necessary to achieve policing objectives. All supervisors are required to manage and monitor their staff and in this context it is the duty of supervisors to be open and honest with individuals about performance, attendance and general behavioural issues. From time to time this may involve fair comments to individuals about issues affecting their work. It is important that these comments are not personalised but rather address the behaviours that need to be improved. Bullying does not arise where managers make comments or give advice and feedback in an honest and constructive manner, supported by clear facts and communicated in a reasonable manner.

5.3 **Forms of Bullying**

The following forms of bullying are illustrative rather than exhaustive:

- Constantly ridiculing, humiliating and belittling a person in public or private.
- Intimidating a person through gestures and glances that convey threatening messages.
- Verbally abusing a person through shouting or swearing at them in public or private, or using other demeaning and obscene language.
- Insulting or unnecessarily commenting on the appearance of another person.
- Spreading malicious gossip about a member of staff or his or her family.
- Showing hostility through sustained unfriendly contact or by deliberately ignoring an individual or their contribution at meetings.
- Setting work objectives with unachievable deadlines or manipulating the nature of the work or the ability of another to perform it by deliberately giving ambiguous instructions or withholding critical information in order to undermine a colleague's performance.
- Intruding on a person's privacy through pestering, spying or stalking.
- Physically assaulting or threatening to assault another including pushing, shoving, kicking or poking another person or behaving in a menacing way towards another.
- Inappropriate overruling of a person's authority, giving repeated unreasonable assignments of duty which are unfavourable to one person.
- Persistently and inappropriately finding fault with a person's work and using this as an excuse to humiliate the person rather than trying to improve performance.
- Constantly accusing a staff member of errors when things go wrong even when they are not responsible.
- Inciting staff members to disregard another staff member's orders.
- Repeated, and without cause, unfair allocation of duties, or by unfairly excluding a member from certain duties.
- Undermining an individual's position or role in the workplace by non-assignment of tasks, or repeatedly unfairly assigning menial tasks.

5.4 **Harassment, Sexual Harassment and Bullying by Clients, Customers and Business Contacts**

This policy provides protection from harassment, sexual harassment and bullying committed by clients, customers or business contacts or any other persons that the member comes into contact with in the course of their work. This may include those who supply or deliver goods or services, maintenance workers or other types of professional contractors, as well as volunteers.

The sanctions may include termination, non-renewal of contracts or other sanctions as considered appropriate.

6.0 VICTIMISATION

This Chapter gives a brief overview of victimisation as it relates to an employer and an employee.

It is unlawful for an employer to penalise an employee for taking action around the enforcement of the Employment Equality Acts 1998 and 2004 and the Equal Status Acts 2000 and 2004.

Victimisation occurs where the dismissal or other adverse treatment of an employee is a reaction by the employer to:

- (a) a complaint of discrimination made by the employee to the employer;
- (b) any proceedings by a complainant;
- (c) an employee having represented or otherwise supported a complainant;
- (d) the work of an employee having been compared with that of another employee for any of the purposes of these Acts or any enactment repealed by these Acts;
- (e) an employee having been witness in any proceedings under these Acts or any such repealed enactment;
- (f) an employee having opposed by lawful means an act which is unlawful under these Acts or any such repealed enactment; or
- (g) an employee having given notice or an intention to take any of the actions mentioned above.

7.0 GENERAL ROLES AND RESPONSIBILITIES

This Chapter outlines the general roles and responsibilities of all members of staff including supervisors and officers in achieving a harassment, sexual harassment and bullying free work environment.

This chapter outlines the general responsibilities of:

- all members
- supervisors and officers
- Equality Advisers; and
- the Equality Officer.

7.1 Responsibilities of all Members of the Service

All members have a personal responsibility to help maintain a working environment that is free from harassment, sexual harassment, bullying and victimisation in which the dignity and diversity of all individuals is respected. It is the responsibility of each member to support this policy by supporting and empowering individuals, who are, bona fide, affected by bringing instances of such behaviour to attention at an early stage and by not making spurious, frivolous or vexatious complaints.

Each member must comply with this policy by co-operating with the procedures set out whether as a complainant, the person complained of, or a witness. It is also incumbent on each person to examine their own behaviour to ensure that they are not offending colleagues, co-workers or any person with whom they have dealings in the course of their work.

7.2 Responsibilities of Supervisors and Officers

Supervisors and officers have a particular responsibility for implementing this policy and for taking all necessary steps to ensure that harassment, sexual harassment and bullying do not occur in their areas of responsibility. The primary responsibility for dealing promptly and effectively with such incidents rests with supervisors and officers, once they become aware of such incidents. Training will be given to those tasked with the responsibility for dealing with these incidents.

Supervisors and officers should:

- promote a culture of respect for diversity across the nine grounds in the workplace;
- ensure that this Policy is clearly communicated to all staff with particular emphasis on the responsibilities of all personnel in creating a harassment, sexual harassment and bullying free work environment;
- explain how the complaints procedure operates and issue each member with an explanatory booklet;
- explain the Policy and procedures to new members of staff as part of their initial training at the Garda College and at their formal induction process at each station or section and issue each new member with an explanatory booklet;
- communicate the Policy to non-employees such as clients, customers and business contacts by issuing each with an explanatory leaflet where possible and ensuring posters outlining the organisation's policy are placed in a prominent position;
- lead by good example by treating all staff, service providers and the public with courtesy and respect;
- be vigilant for signs of harassment and bullying, and take action before a problem escalates;
- respond sensitively to any member of staff who makes a complaint of harassment, sexual harassment and bullying and take appropriate action;
- explain the procedures to be followed on receipt of a complaint and make every effort to have the complaint resolved informally where appropriate;
- ensure Equality Advisers are facilitated in carrying out their role;
- ensure that members who make a complaint are not victimised for doing so;
- keep a record of all interviews and meetings regarding complaints and how these were resolved;
- avoid discussing the case with anyone inside or outside the Garda Síochána other than those to whom an investigator must speak directly;
- maintain confidences unless the interest of natural justice requires disclosure;
- monitor and follow up the situation after a complaint is made so that the harassment, sexual harassment, bullying or victimisation does not recur.

7.3 The Equality Adviser

Equality Advisers have been appointed in each Division and have an important role to play in listening, sympathising, supporting, advising and empowering members of staff who feel they have been subjected to harassment, sexual harassment or bullying. A person who is the subject of a complaint may also contact an Equality Adviser. If an Equality Adviser is approached by both parties they should support the first person who requests their help and refer the other party to another Equality Adviser.

Equality Advisers should give notice to their supervisor when they are meeting a complainant or a person against whom a complaint has been made, while ensuring that the confidentiality of the Equality Adviser's role is respected. Equality Advisers will be facilitated in their role subject to the exigencies of the service.

The appointments of Equality Advisers are made following consultation and agreement with the local Divisional Officer/Chief Superintendent and the staff associations. The tenure is for a fixed four year period.

Meetings should take place in a private suitable location and should normally occur during the working hours of the Equality Adviser. Three to four meetings should be sufficient with any one individual; more than this may draw the Equality Adviser into a counselling relationship, which is not the intention of this policy.

In cases where criminal or disciplinary offences are disclosed, or in a crisis situation where there is a potential danger (of assault or suicide) it is the Equality Advisers function to note the details of the case and report the matter to the Divisional Officer/Chief Superintendent as appropriate, with due regard for confidentiality. In other cases, Equality Advisers having outlined the options available to a complainant, will respect the wishes of the complainant even though these wishes might be against their better judgement.

Equality Advisers are trained in the required skills to carry out their role effectively.

The contact details of Equality Advisers are displayed on posters in each Garda Station and Section.

7.3.1 The role of the Equality Adviser

The role of the Equality Adviser includes;

- confidentially listening, sympathising, supporting, and advising;
- providing information on all options available;
- assisting the individual member in thinking through the options;
- empowering individuals to decide on a course of action;
- empathising without judgement;
- if requested by the complainant, approaching the person complained of by way of confidential, non-confrontational discussion with a view to resolving the issue in a low-key manner; and
- remaining impartial.

7.3.2 What the role of Equality Adviser does NOT include

The role of the Equality adviser does not include:

- representation;
- mediation;
- counselling;
- investigation;
- adjudication; or
- meeting outside working hours, unless absolutely necessary.

7.4 **Equality Officer**

The Garda Equality Officer is the Chief Superintendent attached to Human Resource Management and is responsible for overseeing the implementation and correct application of this Policy. The Garda Equality Officer is also available to provide guidance, support and advice to all members in their role as Equality Advisers. Where a complaint is lodged directly with the Equality Officer, he/she will oversee the formal investigation, and will ensure the member appointed as the investigator will not be drawn from the same Division as the complainant.

For a more specific overview of the various roles and responsibilities under this policy see Appendix A.

8.0 PROCEDURES FOR MAKING AND DEALING WITH COMPLAINTS OF UNACCEPTABLE BEHAVIOUR

This Chapter outlines how to make a complaint of harassment, sexual harassment or bullying, and how it should be dealt with.

Complaints relating to the assignment of duties or terms and conditions of employment that do not come under the definitions of harassment, sexual harassment or bullying may be dealt with under the Grievance Procedure. All complaints of harassment, sexual harassment or bullying must be dealt with under the procedure outlined in this Chapter and not the Grievance Procedure.

Complaints of harassment, sexual harassment or bullying must be treated seriously by all supervisors and officers and dealt with sympathetically and promptly. In as far as possible all complaints of discrimination and in particular complaints of harassment, sexual harassment or bullying will be handled in confidence. It will not be possible to promise complete anonymity to persons who participate in an investigation. The principles of natural justice require that a person who is alleged to have engaged in harassment, sexual harassment or bullying be given sufficient details of the allegations to adequately defend themselves.

The Garda Síochána is committed to monitoring and recording incidents of unacceptable behaviour. Statistics and information gathered from such monitoring will be recorded and used to assist in taking corrective action and achieve continuous improvement.

8.1 First Instance – Let objections be known

Any member who feels that they are being or have been subjected to harassment, sexual harassment or bullying may, where possible let their objections be known to the person engaging in the unwelcome behaviour as that person may be unaware of the effects of their actions. The member may either approach the alleged perpetrator directly to make the person aware that the offensive behaviour is unwelcome; alternatively the member may request a trusted colleague or an Equality Adviser to approach the person.

Sometimes the alleged perpetrator is genuinely unaware that their behaviour is unwelcome and causing distress. An informal discussion may often be sufficient to alert the person concerned of the effects of their behaviour and can lead to a greater understanding and an agreement that the behaviour will discontinue.

Before deciding what course of action, if any, to take, the member may wish to discuss the matter on a confidential basis with a third party such as an Equality Adviser, supervisor or manager, staff representative or a trusted colleague. An effective third party can help clarify if a complaint is warranted, and give advice on the options to be considered. Members should be mindful of not approaching their own Divisional Officer in this context as it may exclude them from a formal investigation should the matter progress to that stage.

8.2 Informal, formal approach and appeals process

Complaints under this process can be dealt with through an informal or formal approach.

An informal approach is usually where a complainant reports the matter to a supervisor and with the assistance of the Supervisor resolves the matter. It may not always be necessary to involve a supervisor in resolving the matter; however, a supervisor should be made aware that an incident has occurred and that it has been resolved. See Process maps and process flow diagram for the informal process on page 26.

A formal approach is where the complainant makes a written complaint to their Divisional Officer/Chief Superintendent and the matter is dealt with either through mediation or investigation with a view to achieving a formal resolution. See Process maps and process flow diagram for the formal process on page 31.

It is recognised that circumstances may occasionally exist where, for good reasons, a member may feel that their complaint cannot be pursued through the local line management structure. In such circumstances, the complainant may bring their complaint directly to the Equality Officer at Human Resource Management, Garda Headquarters:

A complainant or a person complained of may appeal the findings of a formal investigation to their local Assistant Commissioner who will make a final determination in the case. The Assistant Commissioner may request the assistance of an external independent expert to review the investigation.

Having made a determination an Assistant Commissioner may consider the possibility of engaging an external mediator to empower the parties to find their own solutions to the difficulties and to help them to achieve a resolution of the conflict. This option can only be exercised where a complaint has not been upheld and with the agreement of the two parties.

Where a complaint amounts to a crime the matter should be the subject of a criminal investigation. This will take precedence over these procedures.

8.3 Informal Approach

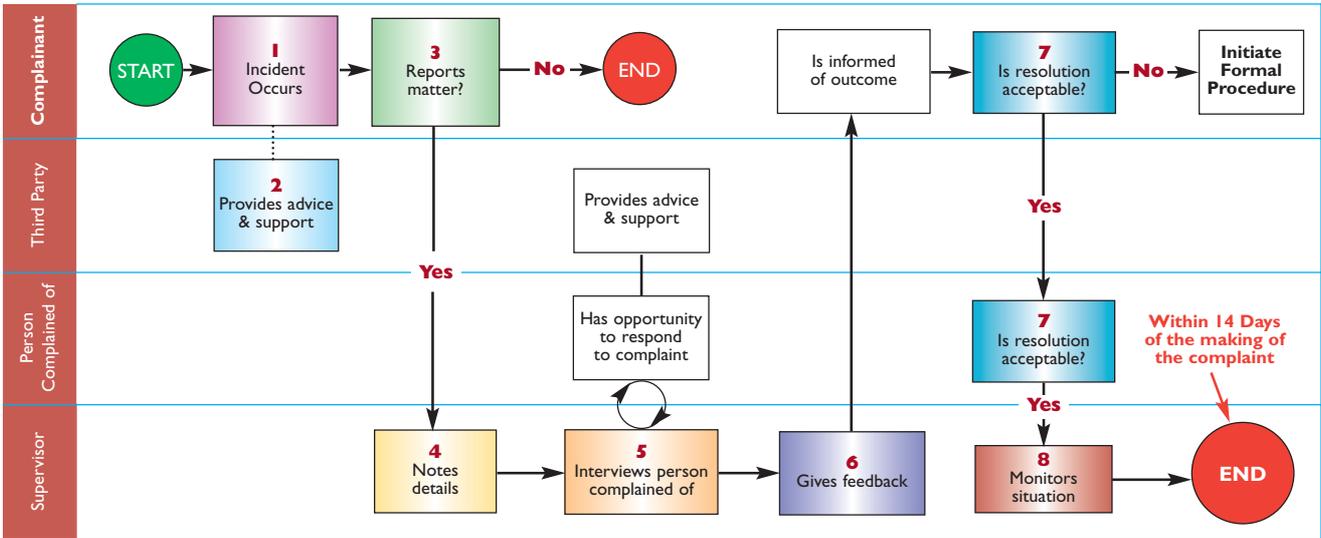
- A member who considers that they are being harassed, sexually harassed or bullied should, where possible, make it clear to the offending person or people that the behaviour is offensive. The objective of this approach is to resolve the difficulty with the minimum of conflict and stress for the individuals involved.
- The complainant may seek the advice or support of a third party including an Equality Adviser or a member from their staff association.

- The complainant should keep a record of each incident as it occurs and request witnesses, if any, to note the details also.
- The complainant may report the matter to any supervisor within the District or Division, or to an Equality Adviser, Employee Assistance Officer or their staff association.
- While it may not be necessary to involve a supervisor in achieving a resolution to the problem, where possible the supervisor should be made aware that an incident has occurred that required a resolution. Informing the supervisor of the incident will mean that a record can be maintained of the incident at the Divisional Office for statistical purposes. There is no requirement to include the names of the members involved, in this instance, merely brief details of the nature of the behaviour and a confirmation that both parties had reached a resolution through informal means.
- The complainant may give an indication to the supervisor of what would satisfactorily resolve the complaint after the supervisor has outlined a range of potential options available.
- The supervisor should approach the person complained of by way of a confidential, non-confrontational discussion with a view to resolving the issue in an informal low-key manner. It should be made clear to the person complained of that any explanation offered will not be subsequently used in evidence against them in support of any disciplinary charges.
- Complaints which do not amount to a disciplinary or criminal offence may be resolved informally and amicably with the consent of the complainant and the person complained of within 14 days of the matter being reported.
- The person complained of should be prepared to listen to the complaint in full and be given an opportunity to respond.
- The person complained of may seek the advice or support of a third party including an Equality Adviser or a member from their staff association.
- In all cases where complaints of this nature are brought to the attention of a supervisor they will make a note of same for their own records, as these notes may be required in subsequent investigations of the complaint.
- Where a complaint of inappropriate behaviour has been resolved through an informal resolution there is a **requirement** to report the matter to the Divisional Officer/Chief Superintendent for statistical purposes, however, there is **no requirement** to place any record on either member's history papers.
- A complainant may decide, for whatever reason, to bypass the informal procedure. Choosing not to use the informal procedure will not reflect negatively on a complainant in the formal procedure.

Note:

- A member who considers that they have been harassed, sexually harassed or bullied may make a complaint after the first occurrence and proceed directly to the formal approach.
- If a member opts for an Informal Approach and the matter is not resolved to their satisfaction, the member may invoke the formal process.
- The fact that a member opts for either a formal or informal approach, in the first instance, will not reflect negatively on them, as the matter is progressed.

Informal Process



Informal Process Flow Definition

| No. | Stage | Actioned by | Activity | Time Frame |
|-----|---------------------------------|--|--|---|
| 1 | Incident occurs | Complainant | Incident(s) occurs which affects the complainant. The complainant may seek advice and support from a third party. | |
| 2 | Provides advice and support | Third party | Provides advice and support on what has occurred and what can or should be done to resolve the matter. | |
| 3 | Reports matter | Complainant | Complainant reports the matter to a supervisor/ Equality Adviser/staff association/colleague. | At the earliest opportunity |
| 4 | Notes details | Supervisor/Equality Adviser/staff association representative/colleague | Listens carefully and notes details of the incident and explains the procedure to be followed and offers advice and support in a non-confrontational manner. | Immediate |
| 5 | Interviews person complained of | Supervisor | Interviews the person complained of, allowing them to respond to the complaint. The objective is to resolve the matter, not to lay blame. | At the earliest opportunity. |
| 6 | Gives feedback | Supervisor | Complainant should be made aware of response to complaint. | At the earliest opportunity |
| 7 | Resolution | Supervisor | Consider whether a suitable resolution can be achieved. Ensure that resolution is confirmed by the complainant and the person complained of. | Within 14 days of the making of the complaint |
| 8 | Monitors situation | Supervisor | Monitor the situation to ensure there is no re-occurrence. | For reasonable period. |

8.4 Formal Process

If a complainant opts to take the formal route they should report the matter to their Divisional Officer/Chief Superintendent. The complaint may be made directly to the Divisional Officer/Chief Superintendent verbally or in writing. Where it is done verbally, a subsequent written complaint must be supplied before the initiation of any investigation. All complaints regardless of whether made orally or in writing must be acted upon.

Written complaints should contain:

- ✓ details of the person or people against whom the complaint is being made;
- ✓ full details of the alleged act or acts constituting the behavior complained of including dates, times and places;
- ✓ a list of witnesses (if any);
- ✓ details of whether the complainant let their objections be known and whether an informal resolution was invoked in the past;
- ✓ an indication of what would satisfactorily resolve the complaint, if the complainant wished to offer such indication.

Acknowledge within five working days

The Divisional Officer/Chief Superintendent must acknowledge the complaint within **five working days and notify the person complained of within the same timeframe**. This correspondence will state that there are two options available in attempting to resolve the complaint, either mediation or investigation. See appendix B for guidelines on the drafting of these documents.

Respond to Divisional Officer/ Chief Superintendent within five working days

Both parties to the complaint must respond to the Divisional Officer/Chief Superintendent's correspondence stating their preferred method of resolution within **five working days**.

When mediation is chosen

When mediation is chosen by both parties, then an external professional mediation service will be available for this purpose. Mediation is a voluntary process that can only be undertaken if both parties agree. It can also end at any stage if either party decides to do so. Where both parties voluntarily agree to mediation then the Divisional Officer/Chief Superintendent will request the Chief Superintendent HRM to organise an external professional mediation service to contact both parties directly. The Divisional Officer/Chief Superintendent will inform both parties that mediation is being pursued and that they will be contacted directly by the appointed mediator. The only information that will be passed to the mediation service is the name and contact details of the parties involved and the nature of the issue, no other information will be supplied. The conduct of the mediation process will be a matter for the mediator and the parties concerned.

When mediation resolves the matter

When the matter has been resolved through mediation no further action will be taken by the Divisional Officer/Chief Superintendent. The mediator may provide the Divisional Officer/Chief Superintendent with a copy of a written agreement reached in order that they may oversee the implementation of the agreement, however, this may not happen as a resolution can be reached without a formal agreement. The mediator will inform Chief Superintendent HRM,

who will notify the local Divisional Officer/Chief Superintendent, when the mediation process has reached a conclusion.

Three possible outcomes

There are three possible outcomes to the mediation process:

1. resolution has been reached and no further action is required;
2. resolution cannot be reached in this instance, it should be noted that it is not a matter for the mediator to recommend that the matter be investigated;
3. resolution may be reached if certain actions are carried out in this instance.

The mediator may, with the consent of both parties, advise Chief Superintendent HRM of the nature of what is being sought.

Further information on mediation is provided at Appendix C.

Where there is an investigation

Where the matter is to be dealt with by an investigation, the investigator may facilitate referral to mediation if requested by both parties. If agreement is not reached and the mediator considers that the matter cannot be resolved by mediation, the mediator shall write to the parties and to the Divisional Officer/Chief Superintendent to that effect. The matter will then be referred to an investigator to commence or resume an investigation.

Investigation will establish facts

An investigation will establish the facts or credibility of the complaint, with due regard for the provisions of fair procedure and natural justice.

Suitable investigator will be chosen

The Divisional Officer/Chief Superintendent will select a suitable investigator, who should be of higher rank than the complainant and person complained of and be not lower than Inspector rank. In the case of any possible conflict of interest, an investigator that is agreeable to both parties should be appointed. In either case, the person selected should have appropriate training and experience and be familiar with the procedures involved. The investigation should be conducted thoroughly, objectively, with sensitivity, utmost confidentiality, and with due respect for the rights of both the complainant and the person complained of. The investigator will report their findings within 28 days of the complaint being received at the Divisional office.

Investigator may appoint assistants

The investigator may appoint people to assist in the investigation. The member appointed to carry out the investigation and their assistants should not be connected with either party in a personal way. Where the Divisional Officer/Chief Superintendent considers it necessary they may seek to appoint an investigator from another Division with the consent of the local Assistant Commissioner.

When formal complaint received

On receipt of a formal complaint, the Divisional Officer/Chief Superintendent will inform the Assistant Commissioner, HRM and their local Assistant Commissioner that a complaint has been received and is being actioned. The notification to Assistant Commissioner, HRM and the local Assistant Commissioner is for the purposes of monitoring the investigation and the subsequent resolution.

Review within 28 days

Within 28 days of the complaint being received, the Divisional Officer/Chief Superintendent shall review the investigation of the complaint. Where an investigation has concluded they shall inform both parties in writing of the findings of the investigation. A copy of the investigation file will be sent to the local Assistant Commissioner and Assistant Commissioner HRM.

Sensitivity of complaint

With respect to carrying out an investigation, the Divisional Officer/Chief Superintendent shall give due consideration to the sensitivity of the complaint and ensure that investigating officer(s) behave appropriately, with due regard to established tenets of fair procedure and natural justice in the circumstances.

Some complaints will be forwarded to the Assistant Commissioner

Where the person complained of is the Divisional Officer, the formal complaint will be forwarded to the local Assistant Commissioner who will appoint a suitable member not below the rank of Assistant Commissioner to investigate the complaint. The option of mediation also applies in this situation.

Stages of Formal Resolution – Divisional Officer/ Chief Superintendents Responsibilities

Within 5 days

On receipt of a written complaint the Divisional Officer/Chief Superintendent will within 5 working days of receiving a formal complaint:

- acknowledge receipt to complainant;
- notify the person complained of that a complaint has been made against them; and
- Inform both parties that mediation or investigation can be used to resolve the matter.

Within 10 days

On receipt of a written complaint the Divisional Officer/Chief Superintendent will within 10 working days of the complaint being received and where consent has been given for mediation by both parties:

- inform HRM of the need for a mediator; and
- will forward on the names, contact numbers and a brief outline of the nature of the complaint;
- If either party rejects mediation then the matter will be dealt with by investigation.

Within 28 days

On receipt of a written complaint the Divisional Officer/Chief Superintendent will within 28 working days of the complaint being received:

- review the complaint;
- where an investigation has concluded they will inform both parties in writing of the findings of the investigation.

A copy of this file will be sent to the local Assistant Commissioner and Assistant Commissioner HRM.

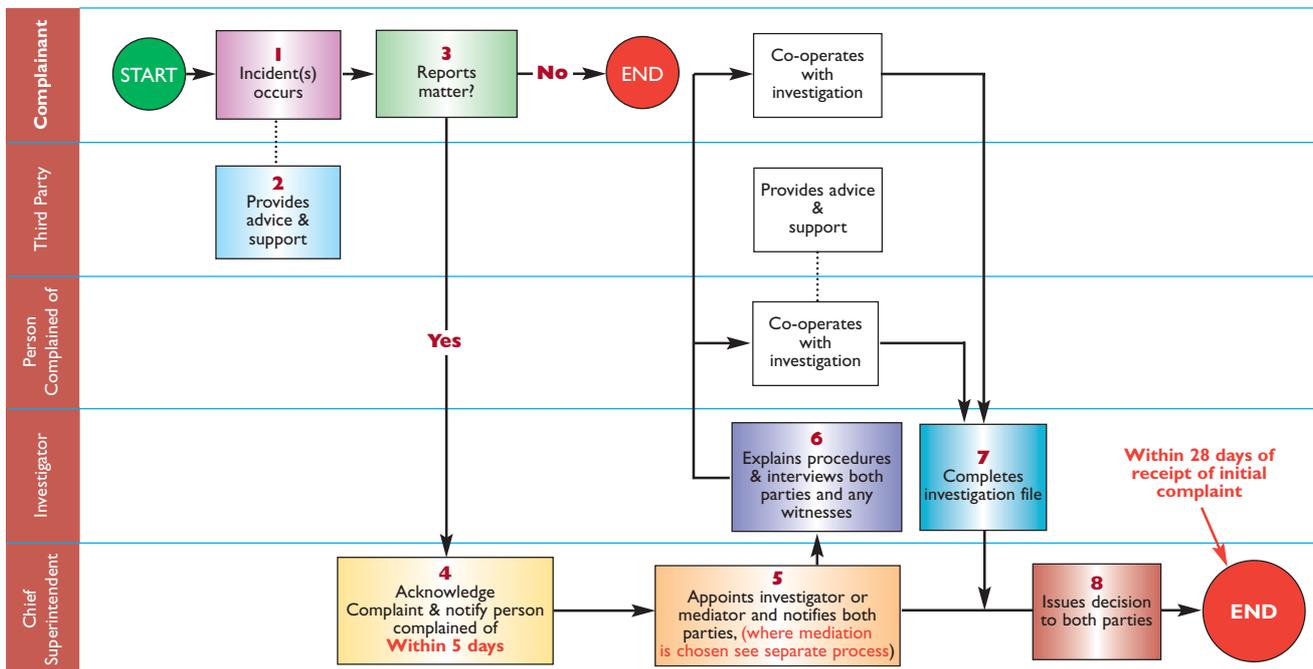
Where mediation was unsuccessful the Divisional Officer/ Chief Superintendent shall have the matter investigated. The 28 day deadline will not apply in cases which have been referred to mediation, however, both parties will be informed of the outcome of an Investigation as soon as practical.

8.5 Extensions to the time limits

Extensions to the time limits outlined are acceptable once there is clear justification and both the complainant and the person complained of have indicated that they have no objections to the extension. It is important to maintain a record with reasons for the delay in time limits.

The investigation should be carried out by a member(s) of the Garda Síochána **not connected with** either person in a personal way.

Formal Process



Formal Process Flow Definition

| No. | Stage | Actioned by | Activity | Time Frame |
|-----|--|--|--|-----------------------------|
| 1 | Incident occurs | Complainant | Incident occurs which affects the complainant. The complainant may seek advice and support from a third party. | |
| 2 | Provides advice & support | Third party | Provides advice and support on what has occurred and the possible options. | |
| 3 | Reports matter | Complainant | Complainant reports matter to Chief Superintendent/ Divisional Officer. | At the earliest opportunity |
| 4 | Acknowledges complaint and notifies person complained of | Chief Superintendent/ Divisional Officer | Acknowledges complaint in writing to complainant and sends notice to the person complained of. Informs both parties that either mediation or investigation can be used to resolve matter. | Within five working days |
| 5 | Appoints mediator or appoints investigator | Chief Superintendent/ Divisional Officer | Appoints a mediator or investigator where appropriate. | Within 10 working days |
| 6 | Conduct interviews | Investigating member | Interviews complainant, person complained of and any witnesses to incident. | At the earliest opportunity |
| 7 | Completes the investigation file | Investigating member | Completes the investigation file and submits to Chief Superintendent/Divisional Officer. | At the earliest opportunity |
| 8 | Issues decision | Chief Superintendent/ Divisional Officer | Be satisfied of thorough and impartial investigation. Issue copies of the findings and decision to both parties and to the local Assistant Commissioner and to Assistant Commissioner HRM. | Within 28 days |

8.6 Conduct of Investigation

The investigator

The investigator should clearly indicate to both parties that the investigation must follow fair procedures and be mindful of the rights of both the complainant and the person against whom the complaint has been made.

It is important that the investigating officer indicates clearly to the complainant or the person complained of that they are not a counsellor. Where a complainant or person complained of seeks counselling they should be directed to an Employee Assistance Services Officer.

When complaint is not made in writing

Where a complaint is not made in writing the Divisional Officer/Chief Superintendent shall seek a statement of complaint in writing before initiating the investigation. If there are no concrete examples given, it must be deemed that there is no complaint to be answered by the person complained of. The complainant should be informed that a copy of their statement will be furnished to the person against whom the complaint has been made.

Discussing the case

The complainant and person complained of should be requested not to discuss the case with any other party not connected with the investigation. This does not preclude discussing the case with one's staff representative, medical practitioner or any other professional or family member or nominated friend or colleague.

Right to be accompanied or represented

Both parties should be informed they have the right to be accompanied or represented at interviews held during the investigation. The accompanying person must be a colleague, friend, family member or staff association representative. It would not be appropriate for a person who is likely to be a witness to act as an accompanying person.

The investigation and the person complained of

The person complained of will:

- ✓ be advised in sufficient detail of the allegations made against them and be given a copy of the complainant's written statement in advance of the interview;
- ✓ be given a reasonable period of time to consider the allegations which may vary depending on the nature and type of incident;
- ✓ be given an opportunity to comment on the alleged incident(s) from their perspective and to comment on the detailed statement of the complainant;
- ✓ be given an opportunity to answer the allegations in writing; and
- ✓ be asked whether there were any witnesses or evidence available in relation to the alleged events.

The investigation and the complainant

The complainant will be provided with a copy of the statement of the person against whom a complaint has been made. The complainant will be given an opportunity to comment on the statements.

The person complained of and the complainant

Both parties will be given an opportunity to comment on the content of witness statements (if any).

Confidentiality

All reports and correspondence must be treated with the utmost confidentiality and will not be available to any person who does not have direct involvement in the case. If a person demands that information provided to an investigating officer remain confidential there is no legal duty to maintain confidentiality, however confidences will be respected in as far as possible unless the investigating officer is of the view that natural justice requires disclosure.

Under pressure

It will be considered a serious matter if any person interferes with or puts pressure on any party involved in a complaint, including witnesses.

Submitting the report

On completion of the investigation, the investigator shall submit their report to the Divisional Officer/Chief Superintendent. The report shall include a conclusion with one of the following, with clear justifications for the selected option:

- (i) on the balance of probability the complaint is upheld for the following reasons;
- (ii) on the balance of probability the complaint is not upheld for the following reasons; or
- (iii) the complainant has withdrawn their case and there is 'no case to answer'.

Non co-operation of person complained of

In the event of non co-operation of a person complained of, an investigator may determine on the basis of the evidence, and the lack of any explanation from the person complained of that the incident did occur and has been upheld.

Record of complaints

Divisional Officers/Chief Superintendents will keep a record of all formal complaints and will ensure a copy of same is submitted to the local Assistant Commissioner and to the Assistant Commissioner Human Resource Management.

8.7 Withdrawal of a Complaint

- If a complainant withdraws a complaint during the investigation or refuses to co-operate in the investigation, the investigator may decide to end the investigation and make a finding of 'no case to answer'. However, if the matters complained of are very serious or criminal in nature the withdrawal of the complaint will not be accepted.

8.8 Principles to be observed by the Investigator

The investigator must avoid discussing the case with any person, whether within or outside of the workplace, other than those to whom they must speak in the course of the investigation.

Impartial

During the course of the investigation the investigator will be impartial and will not indicate their views with regard to the credibility or otherwise of the complaint itself, or the evidence given by the complainant, the person against whom the complaint is made or any witnesses.

The investigator will refuse to be drawn into any speculation with any party as to the likely outcome of the investigation. The investigator will maintain a record of all interviews or meetings held during the investigation.

Bona fide complaints will not be viewed as malicious

Even if not upheld, members can be assured that bona fide complaints will not be viewed as malicious. While a malicious complaint will generally be treated as serious misconduct under the disciplinary procedures, this provision should not deter members from forwarding genuine complaints.

Transfer application

A complainant or person complained of, may, before or after completion of the investigation, wish to be transferred (temporarily or permanently) to another station or section irrespective of whether the complaint is upheld or not. Transfer applications in such circumstances will be given every consideration.

8.9 Conclusion of Investigation

On receipt of the investigation file the Divisional Officer/Chief Superintendent shall satisfy themselves that all appropriate steps have been taken and that a thorough and impartial investigation has been carried out. Both parties should be advised in writing of the outcome and the further action that will be taken. Further action will be determined by whether the complaint was upheld or not.

8.10 Action where complaint is upheld

Where a complaint is upheld and the findings amount to a crime or gross misbehaviour, the Divisional Officer/Chief Superintendent may decide the matter is the subject of a criminal investigation or must be dealt with under the disciplinary regulations.

Where a complaint is upheld and the findings do not amount to a crime or a disciplinary offence the Divisional Officer/Chief Superintendent shall decide whatever further action in relation to the complaint is warranted. This may include issuing advice, admonition or warning as necessary and monitoring the situation for a period, thereafter. The provision of training in treating people with respect and dignity may also be offered in this instance.

Where a complaint is upheld it may be appropriate in certain circumstances for a Divisional Officer/Chief Superintendent to refer a person against whom a complaint has been made to the Chief Medical Officer with a view to assessing the needs for counselling or support services in respect of their behaviour.

8.11 **Action where complaint is not upheld**

Where a complaint is not upheld the Divisional Officer/Chief Superintendent will ensure that there is no victimisation of the complainant following the investigation. No disciplinary action will be taken where a complaint is not upheld save where it has been proved to be malicious.

The Divisional Officer/Chief Superintendent will ensure that the complainant is aware that bona fide complaints even if they are not upheld will not be viewed as malicious.

Where a complaint is not upheld a Divisional Officer/Chief Superintendent will ensure that the reputation and career prospects of both parties will be unaffected by either the making of a complaint or being the subject of a complaint. Every effort should be made to help restore the confidence of both parties.

Where a complaint has not been upheld a complainant or the person complained of may be transferred to another station or section. Such a transfer shall only take place where either party has indicated a wish for a transfer and it is deemed appropriate by HRM.

A record of all such complaints and the manner of resolution should be maintained at Division/Section level and a copy of the full investigation file including the Chief Superintendent's action shall be forwarded to the local Assistant Commissioner and Assistant Commissioner, Human Resource Management.

8.12 Appeals Procedure – Review of Investigation

Where either party is not satisfied with the outcome of the formal investigation they may appeal within 42 days to have the decision reviewed by their local Assistant Commissioner who will be the final arbiter within the Garda Síochána.

- A request for an appeal must clearly and comprehensively state the grounds on which it is being sought.
- On receipt of a request for an appeal the Assistant Commissioner shall notify both parties that an appeal is being conducted.
- The Assistant Commissioner may review the case themselves and make a final determination on the matter.

Alternatively the Assistant Commissioner may engage an independent expert to carry out an audit of the investigation. The independent expert may be a member of the legal profession or a former Rights Commissioner with extensive experience in the areas of employment law. In making the final determination the Assistant Commissioner will consider the views of the expert.

Review findings given in writing

The complainant and the person complained of should be informed in writing of the findings of the appeal or review of the case within 30 days of the notification being received.

An extension to this time limit is acceptable only in cases where there is a justifiable reason and both the complainant and the person complained of have indicated that they have no objections to the extension. A written record should be maintained outlining any reasons for the delay in the time limits.

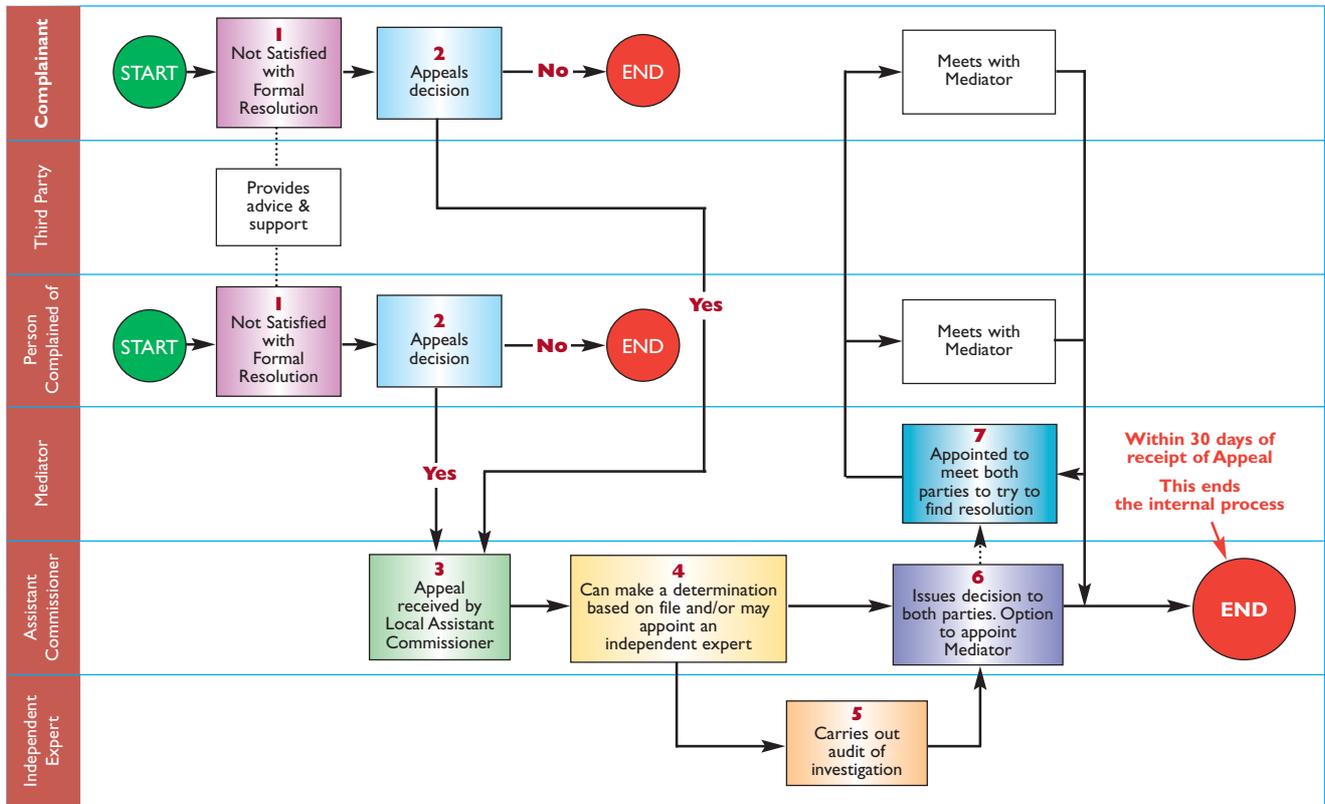
Trained mediator may be engaged

On the conclusion of the appeal the Assistant Commissioner may engage a trained mediator, only in cases where a complaint has not been upheld, to facilitate the parties in reaching an agreement and restoring a normal working relationship. This process requires the consent of both parties.

If both parties are in agreement they will be facilitated in attending the mediation which will be conducted in a private location. Any information that emerges during the mediation process will remain strictly confidential and cannot be disclosed, with the exception of any agreement that may be reached between the parties.

The agreement may be drafted by the mediator and signed by both parties. Once signed the agreement binds both parties. A copy of the agreement will be provided to each party and to the local Assistant Commissioner who will forward a copy of same to the local Divisional Officer/Chief Superintendent and to Assistant Commissioner Human Resource Management.

Appeals Process



Appeals Process Flow Definition

| No. | Stage | Actioned by | Activity | Time Frame |
|-----|-------------------------------|-------------------------------------|---|-----------------------------|
| 1 | Appeals decision | Complainant or person complained of | Either party may appeal the decision. Both parties are entitled to avail of the advice and support of a third party. | Within 42 Days |
| 2 | Provides advice & support | Third party | Provides advice and support. | |
| 3 | Appeal received | Local Assistant Commissioner | Local Assistant Commissioner reviews case. | At the earliest opportunity |
| 4 | Makes a determination on case | Local Assistant Commissioner | Local Assistant Commissioner may make a determination based on the file and, or appoint an independent expert. | At the earliest opportunity |
| 5 | Appoints independent expert | Independent expert | Carries out audit of investigation and submits findings. | At the earliest opportunity |
| 6 | Issues decision | Local Assistant Commissioner | Both parties will be given copies of the decision including recommendations if any. May also appoint an independent mediator if agreed by both parties. | Within 30 Days |
| 7 | Mediation | Mediator | Meets Complainant and the Person complained of with their consent. Draft any agreement reached between both parties and have it signed by both parties and send to local Assistant Commissioner who will forward copy to local Divisional Officer/Chief Superintendent and Assistant Commissioner, Human Resource Management. | At the earliest opportunity |

APPENDIX A: ROLES AND RESPONSIBILITIES

| Role | Responsibilities |
|---|--|
| All Members | <ul style="list-style-type: none"> ● Help to maintain a working environment in which the dignity of all individuals is respected. ● Comply with this policy and ensure that your behaviour does not cause offence to fellow workers or any person with whom you come into contact during the course of your work. ● Discourage bullying and harassment by objecting to inappropriate behaviour. ● Inform a manager or supervisor if you are concerned that a colleague is being bullied or harassed. |
| Complainant | <ul style="list-style-type: none"> ● Consider approaching the person directly to make them aware that the behaviour in question is unwelcome. ● Alternatively consider requesting a supervisor or manager to approach the person on your behalf. ● Seek advice if unsure of what is happening and how best to stop it. ● Be prepared to accept that there may have been a misunderstanding. |
| Person complained (by complainant) of unacceptable behaviour | <ul style="list-style-type: none"> ● If you are approached about your behaviour towards another member, listen to what is being said. ● If there was a misunderstanding it must be clarified with the member concerned. ● Co-operate with any investigation. |
| Third Party Equality Advisers Association Representative Colleague Other | <ul style="list-style-type: none"> ● Provide confidential listening. ● Provide a supportive environment. ● Empower the individual. ● Provide information on options available. ● Assist the individual member in thinking through options. ● Empathise, without judgement. ● Remain impartial. |
| All Supervisors including Officers | <ul style="list-style-type: none"> ● Promote a culture of respect and dignity that accommodates diversity. ● Explain this policy to all staff. ● Explain the Policy and complaints procedure to new members as part of their induction. ● Promote ongoing awareness of the Policy amongst staff. ● Communicate the Policy to service providers where possible and ensure posters outlining the policy are displayed in a prominent position. ● Set a good example by treating all staff and service providers and any other person with whom you come into contact in the workplace with courtesy and respect. ● Be vigilant for signs of bullying and harassment and intervene before a problem escalates. ● Respond sensitively to any member of staff who makes a complaint of harassment, sexual harassment or bullying. |

| Role | Responsibilities |
|---|---|
| All Supervisors including Officers (contd.) | <ul style="list-style-type: none"> ● Respond promptly to requests from members to intervene and seek to resolve the matter informally where appropriate. ● Facilitate Equality Advisers to carry out their role. ● Ensure that members are not victimised for making a bona fide complaint of harassment, sexual harassment or bullying. ● Monitor and follow up the situation after a complaint is made so that the behaviour complained of does not recur. ● Keep a record of all complaints and how these were resolved. |
| Investigator | <ul style="list-style-type: none"> ● Advise both parties of the availability of the Employee Assistance Services. ● Indicate clearly to the complainant or person complained of, that you are not a counsellor. ● Avoid discussing the case with any person, whether within or outside of the workplace, other than those to whom you must speak to in the course of the investigation. ● Do not indicate your views with regard to the credibility or otherwise of the complaint or the evidence given by the complainant, the person against whom the complaint is made or any witnesses. ● Do not get drawn into any speculation with any party as to the likely outcome of the investigation. ● Maintain a record of all interviews or meetings held during the investigation. |
| Staff Associations | <ul style="list-style-type: none"> ● Co-operate with efforts by supervisors or managers to resolve complaints locally. ● Be present at any interviews if the complainant or person complained of so wishes. ● Co-operate fully with attempts to conduct the investigation fairly and without undue delay. |
| Divisional Officer/ Chief Superintendent | <ul style="list-style-type: none"> ● Ensure investigators before being appointed to investigate complaints have been properly trained. ● Acknowledge receipt of complaints and notify person complained of within five working days. ● Within 10 working days of the complaint being received inform both parties to the complaint that the matter is being dealt with by either mediation or investigation. ● Where an investigation is conducted, within 28 days of the complaint being received, review the complaint and inform both parties in writing of the findings of the investigation. A copy of this correspondence will be sent to the local Assistant Commissioner and Assistant Commissioner HRM. ● Monitor the situation for a period of time to ensure no re-occurrence. ● Maintain a statistical record of the number of formal and informal resolutions and appeals. |

| Role | Responsibilities |
|-------------------------------------|--|
| Local Assistant Commissioner | <ul style="list-style-type: none"> ● Make a determination in relation to an appeal based on the investigation file. ● If considered desirable appoint an independent expert who will carry out an audit of the investigation. ● Issue a final decision to both parties. ● If both parties agree appoint a mediator to try to bring a resolution to the matter. |
| Equality Officer | <ul style="list-style-type: none"> ● Responsible for overseeing the implementation and correct application of this Policy. ● Available to provide guidance, support and advice to all members in their role as Equality Advisers. ● Where a complaint is lodged directly with the Equality Officer, oversee the formal investigation. |
| Assistant Commissioner HRM | <ul style="list-style-type: none"> ● Responsible for the formulation of Policy and Procedures in relation to Harassment, Sexual Harassment and Bullying within the Garda Síochána. ● Responsible for ensuring the implementation and effectiveness of the Policy. ● Responsible for providing training to ensure that all staff are enabled to discharge their roles and responsibilities. ● Responsible for reviewing the policy at regular intervals to ensure any changes in the legislation are reflected in the new policy. |

APPENDIX B: SAMPLE CORRESPONDENCE

Sample acknowledgement to the Complainant

To: _____

Re: Complaint of unacceptable behaviour under the Garda Síochána HRM Policy

I acknowledge receipt of your complaint dated _____ and wish to inform you that I have notified the person complained of that you lodged a complaint about their behaviour.

This matter may now be dealt with in two ways.

Firstly, with your permission and with the permission of the member complained of, I can refer this matter to an external mediator. If both of you agree to this option, you will be contacted directly by a mediator appointed by HRM in Garda Headquarters. The mediator will be tasked with helping you both to resolve the issues that have led to your complaint. The Policy and procedures booklet will provide you with further information regarding mediation.

Secondly, if either you or the person you complained of does not wish to pursue mediation then I will have this matter investigated. In this case you will be contacted by the appointed investigator.

Please respond to this correspondence within five working days stating your preferred option.

Chief Superintendent

Sample notice to the person complained of

To: _____

Re: Complaint of unacceptable behaviour under the Garda Síochána HRM Policy

I wish to inform you that a complaint of unacceptable behaviour has been alleged against you by _____ on (Date). It is alleged that you (brief summary of allegations).

This matter may now be dealt with in two ways.

Firstly, with your permission and with the permission of the member making the complaint, I can refer this matter to an external mediator. If both of you agree to this option, you will be contacted directly by a mediator appointed by HRM in Garda Headquarters. The mediator will be tasked with helping you both to resolve the issues that have led to this complaint. The Policy and procedures guide will provide you with more information regarding mediation.

Secondly, if either you or the person making the complaint does not wish to pursue mediation then I will have this matter investigated. In this case you will be contacted by the appointed investigator.

Please respond to this correspondence within five working days stating your preferred option.

Chief Superintendent

APPENDIX C:

MEDIATION

Workplace mediation is particularly suited to disputes involving individuals or small groups of workers. Examples of such disputes would be:

- interpersonal differences, conflicts, difficulties in working together; or
- a breakdown in working relationships;

How does Workplace Mediation work?

Mediation provides an opportunity for those involved to address the issues, explore options and reach a workable outcome through a mutually agreeable course of action. The process is flexible and can be adapted depending on individual situations but essentially revolves around giving every individual concerned an opportunity to give their side of the story and to work with the other party to find a solution. The process may involve a mix of joint meetings or meetings with the mediator alone. The entire process is focused on every individual involved being comfortable with the process and on the active exploration of potential solutions. Some key principles governing the process are outlined below.

- **Mediation is voluntary:** it can only take place on the basis that all sides are agreeable to participate. Anyone can withdraw at any stage if they want to.
- **It is confidential:** the process is private and confidential to the parties unless otherwise agreed. This will give parties confidence to express exactly how they feel and confidence to explore solutions without prejudice.
- **It is fast:** it takes place as soon as schedules allow.
- **It is solution focused:** the object of the exercise is to reach a workable and mutually agreeable solution to the conflict or issue of difference.
- **It is impartial:** the mediator is impartial and does not take sides.

Some Benefits of Workplace Mediation

- It is an opportunity to resolve a problem in an informal non-adversarial way.
- The resolution of the issue remains in the control of the individuals directly concerned. They will be involved in the development of the solution and as a result the outcome is likely to be better and longer lasting.
- It creates a safe place for all sides to have their say and be heard.
- It has the potential for a high success rate and positive outcomes where the parties are genuinely committed to a resolution.
- Mediation focuses on the future working relationships of those involved.
- It will not duplicate other dispute resolution services.

The Mediation Process

Mediation is a voluntary process: it can only be undertaken if both parties agree and it can end at any stage if either party decides to do so.

1. Mediation is offered to both parties.
2. If both parties consent, a meeting is convened by the mediator as soon as practicable after the decision to appoint a mediator is made.
3. The mediator is impartial and does not take sides with either party. The role of the mediator is to assist the parties to negotiate their own agreement and not in making decisions for or imposing solutions on them.
4. Mediation is voluntary. Either party may withdraw their initial consent at any stage and mediation will be terminated immediately. The complainant may request the resumption or initiation of an investigation under the Garda Síochána policy at any stage.
5. Accompanying persons such as a colleague, friend or staff association representative, are welcome at mediation and the mediator will agree with the parties at the outset as to how they can contribute to the mediation process.
6. It is the responsibility of the parties to identify, if necessary with the help of the mediator, the issues on which they wish to negotiate. The parties are responsible for the terms of agreement which they reach.
7. Mediation is conducted in private and no details of what occurs within the process will be formally recorded or placed on personnel files. Information disclosed at mediation will not be made available to an investigator in the event of an investigation being carried out subsequently.
8. Sessions are normally held jointly but in some instances it may help the process to have separate confidential meetings with the parties. The mediator will agree with parties in advance how this process will operate.
9. Once these principles have been established the mediator will arrange a mutually convenient meeting between the parties as soon as is practicable after the complaint has been referred to them.
10. At the meeting the parties are brought together to discuss the problem they face. The mediator facilitates the process without offering solutions, taking sides or making a judgement.
11. The mediator assists each party, beginning with the complainant, to explain what happened from their perspective and how they feel about the alleged incident. This dialogue is an important part of the mediation process as it gives the parties a chance to say what happened from their point of view while the other person listens. In many cases this may be the first time the parties have spoken to each other since the alleged incident. Mediation may only be appropriate in cases where both parties can agree that a decision on whether the alleged behaviour constitutes bullying or harassment, is not as important as reaching an accommodation which will allow both people to work together in the future.
12. Meetings will generally be scheduled to last two hours and a number of such meetings may be necessary. Detailed submissions are not required from either party in the case of mediation. The parties are helped to identify the key issues that need to be addressed and how they might see the dispute being resolved.
13. Mediation will be conducted in private, and will be directly between the parties concerned, with the support of the mediator, who will act as an independent facilitator. Either party may withdraw from the process at any time by notifying the mediator in writing that they wish to do so.
14. If the mediation process results in an agreement acceptable to both parties, the mediator may draw up a written record of the terms of the agreement for signature by the complainant and person complained of. A copy of the mediated agreement will be given to both parties and a copy will be kept by the Divisional Officer who will oversee implementation of the agreement. Once signed, this agreement is binding on both parties.

If, during the course of mediation, one party withdraws or the mediator decides for any other reason that the case cannot be resolved by mediation, the mediator shall write to the parties and to the Divisional Officer to that effect. The matter should then be referred by the Divisional Officer to the investigator to commence or resume an investigation.

Useful Contacts:

Local Equality Adviser(s)

Name _____

Number _____

Garda HRM (Equality Officer)

Tel: 01-6662349

Garda Employee Assistance Service – Head Office

Ormond House, Upper Ormond Quay, D.7

Tel: 01-8726042

Garda Employee Assistance Service-Countrywide

- **Cork City, Cork North, Cork West, and Kerry**
Tel: 021-276939 Mobile No: 086-8282570
- **DMR (N.C.), DMR (N), DMR (W), and Garda Headquarters**
Tel: 01-8726042 Mobile No: 086-8282548
- **DMR (S), DMR (E), DMR (S.C.), Harcourt Sq and Traffic Dept., Dublin Castle**
Tel: 01-8726042 Mobile No: 086-8282569
- **Donegal, Sligo/Leitrim and Cavan/Monaghan**
Tel: 071-9157300 Mobile No: 086-8282571
- **Garda College and Abbeycourt Hotel, Nenagh, Co. Tipperary**
Tel: 0504-35400 Mobile No: 086-8283482
- **Laois/Offaly, Longford/Westmeath, Louth/Meath, Carlow/Kildare (excluding Carlow/Baltinglass Districts)**
Tel: 044-90546/47 Mobile No: 086-8282547
- **Mayo, Galway West, Roscommon/Galway East**
Tel: 091-561771/2 Mobile No: 086-8281790
- **Mid Western Region – Tipperary, Clare, Limerick**
Tel: 0504-35400 Mobile No: 086-8282545
- **Waterford/Kilkenny, Wexford/Wicklow and Carlow/Baltinglass Districts**
Tel: 056-7723014/24 Mobile No: 086-8282546

Gay & Lesbian Liaison Officer – Garda Paul Clancy 086-8288858

Aware – Helping to Defeat Depression

Lo Call: 1890 303302 10am to 10pm, 7 days a week

Email: info@aware.ie Web: www.aware.ie

The Samaritans – National Helpline

Lo Call 1850 609090