



Code: QA115
Title: **Staff Anti-Bullying Policy**
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Staff should note that the University has a suite of policies available to deal effectively with many issues which occur in the workplace. These include:

- Harassment Policy
- Mediation Policy
- Grievance Procedure

Copies of these and other policies are available on the [HR Section](#) of the University Website in the policies folder.

Bullying is also dealt with in the University's Health and Safety Policy and Safety Statement.

Scope:

This policy is applicable to all members of staff employed by NUI Galway. In cases involving both staff and students the applicable policy will be that which applies to the complainant.

- Complaints against members of staff will be investigated under the staff anti-bullying policy.
- Complaints against students will be investigated under the student anti-bullying policy.
- Complaints against contractors will be investigated under the staff anti-bullying policy.

It is applicable to all staff (including Agency Workers) when at work, both on and off campus.

Members of staff employed by other organisations should refer to the appropriate policy within their own employment when faced with a bullying situation.

Instances of bullying involving only students are dealt with under the student Anti-Bullying Policy.

Glossary:

Complainant - the person who feels they are being bullied and makes the complaint.

Respondent - the person against whom the allegations of bullying are made.

Contact Person - the Person who is available to listen and provide information to those who are concerned about bullying in the workplace.

Designated Person - a senior member of staff, who will oversee complaints which have been referred to the Human Resources Unit, to ensure it is managed in a timely and efficient manner.

Reviewers - two trained and experienced people drawn from an independent and external panel to review the process and evidence on file.

Mediator - a qualified external mediator who engages the parties in a mediation process.

Investigation Team - Two people drawn from an internal panel of trained investigators to investigate the allegations of bullying and establish the facts.

Full details on each role is available at Appendix D

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1. Introduction and Executive Summary

The University is committed to protecting dignity and respect across the organisation. This document has been developed in partnership between University management and staff unions through the Employee Relations Section of the HR Office.

The purpose of this policy is to promote respect, dignity, safety, and equality in the workplace. Every member of staff should be aware that all forms of bullying are unacceptable and every member of staff has a duty to behave in an acceptable and respectful manner.

Section 2 of the policy sets out the purpose of the policy.

Section 3 of this policy defines bullying. It also outlines the difference between bullying as defined by this policy and what may be considered as normal workplace conflict.

A key aim of the policy is to define the steps which individuals may take if they believe that they have been bullied. Section 4 of this document outlines the procedures which shall be followed by all parties to complaints regarding bullying.

As part of the revised procedures, a new role, that of the *Designated Person*, is being introduced to the process for the first time. The introduction of this role was required by the *HSA Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work*, and guided by the principles set out therein. Also as part of the revised procedures, the role of the Contact Person will generally be provided by trained members of staff of the University, contact details of whom can be found in Appendix E.

The intention of this policy is to encourage the use of informal resolution methods and the use of mediation as often and as early as possible during disputes. Complaints should only proceed to formal investigation once efforts to utilise local resolution methods or mediation have been exhausted, or are considered to be unsuitable due to the nature of the complaint.

Finally, dealing with issues regarding bullying can be stressful and distressing for all parties concerned. A significant amount of advice and support is available. A list of useful contacts can be found in the appendices to this document and also on the HR Office section of the University website.

This revised policy comes into effect from 06/02/2019 and will be reviewed and amended as appropriate on a biennial basis.

2. Policy Statement

Aim of the Policy

2.1. The purpose of this policy is to:

- Create an environment where bullying is not tolerated in any form;
- Achieve a work environment where dignity and respect are to the forefront of our values;
- Ensure that each individual is aware of his/her responsibility to behave in a way that reflects a culture of dignity and respect;
- Ensure that adequate training and awareness raising initiatives are in place to prevent the occurrence of bullying in the workplace and to ensure training for its proper implementation;
- Ensure that the principle of presumption of innocence is preserved;
- Ensure that the correct procedures and trained personnel are in place to respond to and investigate reported cases in accordance with the principles of natural justice;
- Ensure that the confidentiality of all parties is respected throughout and following the investigation process
- Ensure staff are aware of the supports available to deal with bullying incidents.
- Ensure senior management of the University are informed on an annual basis on the number and outcomes of alleged bullying complaints as reported.
- A key aim of the policy is to provide awareness regarding the steps which individuals may take if they believe that they have been bullied.

Principles underlying the Policy

2.2. In its role as an employer the University has a duty of care in accordance with the Safety, Health & Welfare at Work Act 2005 to its staff to provide a safe place of work. It is University policy that every member of staff has a right to work in an environment free of any form of bullying. Bullying behaviour(s) are totally unacceptable. Aside from the impact upon the individual and colleagues, such behaviour(s) can harm working relationships, undermine morale, and damage efficiency across the workplace.

Each individual has a responsibility to ensure that his/her behaviour reflects a culture of dignity and respect. These procedures provide a framework for those who believe they have experienced bullying.

All complaints or queries raised in relation to bullying will be treated seriously, fairly, and in the strictest of confidence. Complaints should be progressed promptly and the cooperation of all parties involved in a dispute must be given in progressing the matter in accordance with the processes set out in Section 4. This policy emphasises the importance of an informal resolution of a problem where possible, and highlights the use of mediation as a valuable tool when dealing with workplace conflict.

Legislative Commitments

- 2.3. Bullying in the workplace can impact upon the health, safety and welfare of staff. Under the Safety, Health and Welfare at Work Act 2005, employers have a duty to prevent any improper conduct or behaviour which is likely to put the safety, health and welfare of employees at risk. This obliges senior management, and line managers, to ensure that reasonable steps are taken to ensure a work environment free of bullying. This includes developing an anti-bullying policy, and dealing with established complaints of bullying in the workplace. Employers are required to deal with complaints as a priority issue.

This Act also outlines the duty of staff not to engage in behaviour which would endanger the health, safety and welfare of the individual or other members of staff.

The Health and Safety Authority's (HSA) Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work also highlights that bullying should not be tolerated in the workplace and that employers should take proactive measures to prevent bullying and promote a respectful working environment. The HSA Code of Practice contains guidance notes for employers and employees, which have been incorporated in the complaints process contained in section four of this document.

The HSA Code of Practice includes the new role of 'Designated Person', who will oversee each complaint which is referred to the HR Unit. A more detailed description of this role can be found in Appendix B of this document.

The Labour Relations Commission has also published a Code of Practice for Addressing Bullying in the Workplace. This also sets out that employers must take reasonable steps to prevent bullying in the workplace, and to have established procedures for dealing with complaints of bullying.

Timelines

- 2.4. The timelines outlined within this code should be treated as a guide to all parties involved in the complaints process. It is in the interests of all parties that complaints are progressed in a timely and efficient fashion, in compliance with the timelines in this policy. It is expected an investigation will normally take 6 months to complete from receipt of the complaint.

3. Definitions

Bullying

- 3.1. 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.

Examples of bullying (not exhaustive):

- Verbal: personal insults, demeaning remarks, repeated humiliation often (but not exclusively) in front of others, unwelcome nicknames, ridicule, threats;
- Non-verbal or indirect: exclusion with negative consequences, hostile attitude, spreading malicious rumours;
- Abuse of power: regular excessive and inappropriate criticism, deliberately and maliciously withholding work-related information in order to undermine a colleague, repeatedly manipulating a person's job content and targets without due cause;
- Physical: aggressive behaviour, physical intimidation, unwelcome physical contact up to and including assault;
- Communications technology: insulting texts, emails, derogatory comments on social media.

An isolated incident of the behaviour described in this definition may be an affront to an individual's dignity but, as a once-off incident, is not considered to be bullying.

Inappropriate behaviour based on or related to the following grounds: Gender, Civil status, Family status, Sexual orientation, Religion or belief, Age, Disability, Race or Membership of the Traveller community, may constitute unlawful discrimination and may be dealt with in accordance with the Harassment policy which is available on the HR section of the University's website.

Management of Performance

- 3.2. It is the duty of management to be open with staff about performance, attendance or general conduct. Bullying does not arise where critical comments are made in an honest and constructive manner, are backed up by clear facts and are imparted in a reasonable way. The following behaviour does not constitute bullying:

- The proper exercise of authority by management;
- Constructive and fair criticism of a staff member's conduct or work performance.

Where issues arise in this area, it may be more appropriate to address them under the University Grievance Procedure.

General Disputes

- 3.3. It is acknowledged that occasionally there may be disputes or disagreements between colleagues which, although they can evoke strong feelings and result in a difficult working environment, may not match the definitions of bullying as outlined above.

While resolving such disputes may be difficult, staff are encouraged to address disputes in a proportionate way, availing of existing mechanisms, supports and procedures in the process. Parties to such disputes may seek to resolve issues in accordance with the principles of mediation, namely, voluntary participation, positive engagement, moderate language, and respectful thinking. However, a negative inference may not be taken from a situation where a staff member(s) refuse to participate in mediation.

Local managers will facilitate direct discussion in accordance with these principles, or arrange for external professionally qualified mediators if required, in consultation with HR and the parties.

Mediation is a voluntary confidential process that allows both parties resolve their conflict in a mutually agreeable way with the help of a neutral mediator. Mediation can be used to achieve early intervention and resolution for any workplace conflict under this policy. The option to avail of mediation is available at any stage throughout the formal or informal stage of the complaint procedure. See Appendix A of this document for further information.

4. How to deal with Bullying

- 4.1. Please note that the steps outlined below are an overview of the potential steps involved in resolving a complaint. Individuals are not required to follow each step in a linear or sequential fashion. For example, a complaint may proceed directly to the Designated Person phase, or not proceed further than the Local Resolution phase as appropriate. It is also possible to move between formal and informal resolution mechanisms as seems appropriate and as the need arises.
- 4.2. Timelines are mentioned at several stages in the process. It is in the interest of all parties that complaints are progressed in a timely and efficient fashion. Therefore, those managing the complaints process should adhere to timelines wherever possible. Similarly, individuals involved in a complaint should fully co-operate with and participate in the process. See page 23 for role definitions.
- 4.3. Where it is not possible to adhere to timelines at any stage of the process, the person managing that stage of the process should make a record setting out:
 - a) The circumstances which have led to the timeline being exceeded
 - b) The impact (if any) which this will have on the process.

If delays have been caused by either the complainant or the respondent, they should be required to explain, in writing, the reasons for this delay. This information should be made available to the Director of HR for review.
- 4.4. **Mediation** is available at every step of the process. This is a voluntary process, which can be a very effective method of dispute resolution. Further information about mediation can be found in Appendix A of this policy document. Please speak to your line manager or another suitable manager in your area, a member of the HR Unit, or your Trade Union if you would like further information or advice about entering the mediation process.

The formal process will be paused during mediation. Should mediation cease, the formal process will be resumed at the request of either party.
- 4.5. It is important that complaints which are made under this policy are genuine and not vexatious in nature. Such behaviour undermines genuine complaints made by colleagues, may cause stress and upset to those wrongly accused, and can waste the time of those working to investigate the complaint.

However, it is also important to note that behaviour may sometimes genuinely cause unintentional upset to the recipient, even though it does not amount to bullying. The fact that an allegation is held to be unfounded, does not by itself mean that it was vexatious or made maliciously.

Reminder: Not all steps below must be followed in a linear fashion. For example, complaints can proceed directly from the Individual Stage to the Designated Person Stage as appropriate.

Individual

- Individual considers whether bullying has occurred
- Additional information and support is available from:
 - Self-Audit Checklist (see Appendix C)
 - HR Website
 - Contact Person
 - Employee Assistance Programme.
 - Trade Union representative
 - HR Office incl. Deputy Director, Business Partner or Employee Relations sections.
 - Family, Friends Colleagues as appropriate

Bullying Complaint Procedures

Local Resolution

- If possible, the complainant should approach the respondent(s) or ask a manager to do so on their behalf, to advise of the offending behaviour and the impact which it has on the individual, and to ask that it discontinue
- The complainant may refer a complaint to the next appropriate Line Manager
- The Line Manager should attempt to resolve the matter locally and/or offer mediation to both parties with the intention of resolving the matter

Pre- Investigation

- Complaint is referred to the Employee Relations Manager who will appoint a Designated Person to oversee the complaint
- The Designated Person will engage with both parties to:
 - Provide relevant information
 - Familiarise themselves with the background, context and details relevant to the case
 - Encourage the use of mediation with the intention of resolving the matter

Investigation

- The Employee Relations Manager will appoint a trained investigation team to formally investigate the complaint
- The investigation team will examine the complaint; gather relevant evidence and witness statements
- The investigation team will complete a report for the Director of HR
- The Director of HR will decide, based on the investigation report, if any further action is required

Review Process

- If either party is dissatisfied by the conduct or outcome of an investigation, they can apply for a review to assess:
 - If policy and procedures have been followed correctly
 - Whether the conclusions reached by the investigation team can be reasonably drawn from the evidence on the balance of probability
- The review will be an external review panel as described in on Page 19 point 44.

Mediation

- Do I think that I may have been subject to bullying?
- If so, what can I do?

- ❖ If an individual thinks that s/he has been bullied, s/he needs to seriously consider whether this is the case before making a complaint.
- ❖ A number of sources of information and support are available to assist with this consideration and to help provide clarity regarding issues related to bullying, before, during, and after a complaint has been made and/or resolved.
- ❖ These supports will provide information on what constitutes bullying as per Section 3, as well as information regarding how complaints are handled and possible avenues which may be explored to resolve the issues.

Sources of information and support may include any of the following:

- ❖ HR Office
- ❖ Employee Assistance Programme
- ❖ Contact Person
- ❖ Self-Audit Checklist (please see Appendix C)
- ❖ Trade Union representative
- ❖ Colleagues, family members or friends as appropriate
- ❖ HR website

Further information regarding all of the relevant contacts and supports can be found in Appendices B and D of this document.

Disciplinary Issues

- ❖ Complaints regarding bullying are extremely serious, and will be treated as such by management.
- ❖ Complaints which are upheld may be pursued in accordance with the provisions of the relevant University Disciplinary Procedure.
- ❖ Similarly, complaints which are found to be malicious or vexatious may also be pursued as a disciplinary issue, in accordance with the relevant University Disciplinary Procedure. However, the mere fact that a complaint is not upheld does not mean that it will be regarded as malicious or vexatious.

MEDIATION

Mediation is a voluntary confidential process that allows both parties resolve their conflict in a mutually agreeable way with the help of a neutral mediator. Mediation can be used to achieve early intervention and resolution for any workplace conflict under this policy. The option to avail of mediation is available at any stage throughout the complaint procedure. See Appendix A of this document for further information.

Local
Resolution

- Attempt to resolve matter locally

Attempt resolution directly with the relevant parties

1. An individual who believes that s/he has been bullied, should, if possible, inform the person(s) concerned directly that their behaviour is unwanted, unacceptable and ask them to stop.
2. The individual should raise the issue with the person(s) concerned as soon as possible, but no later than four months after the most recent event(s), unless there are extenuating circumstances which may be taken into consideration. In many situations this approach is effective, as a direct communication between both parties can help to build both understanding and awareness. It can sometimes be the case that a person is not aware of their behaviour, that it is unacceptable, or the impact which it has on the other person.
3. Resolution at this stage could involve an apology from the one person to another and/or an agreement that the unacceptable behaviour will not happen again.
4. If the complainant believes that this approach is unsuitable or if it has been unsuccessful, s/he should raise the issue with an appropriate Line Manager. This should be done as soon as possible, but no later than four months after the most recent occurrence of unwanted behaviour involving new complaints as outlined in Point 2 above, or within 10 working days of an unsuccessful attempt at resolving the matter directly with the other party.
5. It is recognised that circumstances may occasionally exist where, for good reasons, a complainant feels they cannot pursue his/her complaint through the line management structure. In such circumstances, the complainant may bring the matter directly to the Director of HR as soon as possible, but no later than four months after the most recent occurrence of unwanted behaviour or within 10 working days of an unsuccessful attempted resolution between both parties as previously outlined in Point 2 above.

Attempt resolution with assistance from appropriate line manager

6. Once the complaint has been brought to his/her attention, the Line Manager should try to resolve the issue locally. This may involve encouraging all parties to engage in meaningful dialogue in an effort to gain a level of consensus or agreement. This should take place as soon as possible, but no later than 15 working days from when the issue was brought to the manager's attention. At all times, the Line Manager should respect the confidentiality of both parties.
7. The complaint may be oral or written. If oral, a written statement of what is complained of should be taken by a line manager, and signed by the complainant. A copy should be given to the complainant and its accuracy confirmed by the complainant by email or signing as appropriate.
8. The Line Manager may refer the complaint directly to the HR Office if they feel that this is the most appropriate method of resolving the matter. This may involve situations where it is clear that local resolution or mediation may not be suitable to resolve the matter.
9. If the Line Manager's attempts to resolve the issue locally have been unsuccessful, the Line Manager should ensure that the parties are made aware of mediation as an option, provide them with information and encourage the parties to avail of the process. If both parties consent to engagement with the mediation process, the Line Manager should contact the HR Office to have a Mediator appointed.
10. If Mediation is either unsuccessful or unsuitable as a means of conflict resolution, e.g. if one or more parties to the complaint refuse to take part in mediation, the complaint should be referred to the HR Office as soon as possible.
11. While complaints at the local resolution stage can be either oral or written, complainants should be encouraged to make their complaint in writing should they wish to progress the issue via the Employee Relations Manager.
12. If the Employee Relations Manager is the subject of the complaint, management of the complaint should be passed on to another senior member of management as appropriate.

- Designated Person assigned to progress complaint

Employee Relations Manager considers if complaint may involve a criminal offence

13. Upon receipt of a bullying (Oral or written) complaint, the Employee Relations Manager will first consider if the complaint may constitute a criminal offence.
14. If the Employee Relations Manager considers that there is a possibility that a criminal offence has occurred, the complaint should be referred to the Garda Síochána as soon as possible.
15. Any further Departmental investigation may be put on hold pending advice from the Garda Síochána as to whether to continue processing the complaint.

Designated Person appointed

16. The Employee Relations Manager will appoint a Designated Person (DP) to progress the complaint, as soon as possible, but no later than 15 working days after receiving the complaint. The full role and responsibilities of the Designated Person are set out in Appendix B of this document.

Designated Person meets with both parties

17. The DP will, within 15 working days of appointment to the case, consult with the complainant to ascertain the details and context of his/her complaint.
18. The DP will, within 15 working days of consulting with the complainant, consult with the respondent(s) to present the complaint including relevant details and evidence of alleged behaviour.

Recording the complaint

19. The complaint should ideally be in writing, signed and dated. The complaint should be confined to precise details of alleged incidents of bullying including their dates and names of witnesses, where possible. Where this is not possible, a written statement should be taken of the complaint by the Designated Person, and signed by the complainant.
20. The DP will remind both parties of the importance of confidentiality and that any breaches of confidentiality may be subject to proceedings under the Disciplinary Policy. The DP will also ensure that both parties have copies of relevant HR policies and information, including a copy of this Policy and the *Disciplinary Policy which is available on the HR section of the University Website* .
21. The DP will advise both parties of possible options and/or resolution methods (e.g. mediation, investigation, withdrawal of complaint, etc.) which may be explored and the timelines involved.

22. The DP should also ensure that all parties are kept informed throughout this stage of the process, as appropriate.

Compulsory Mediation Information Session

23. The DP will provide information on mediation to all parties, including, but not limited to the nature and the benefits of mediation, the role of all parties. This must be carried out prior to an offer of mediation by the DP.
24. The DP will offer mediation to both parties as an option to resolve the issue among the parties themselves. If both parties agree to enter the mediation process, the DP will ask the HR Unit for referral of the complaint to a Mediator as soon as possible.

Reporting to Employee Relations Manager

25. The DP should present to the Employee Relations Manager, within 30 working days of appointment to a case, a written report which should include:
- A record of all stages of the process that took place, i.e. meetings with all parties, mediation, etc. These records should not include comprehensive details of what was discussed but just that discussions took place. The purpose of the records is to provide evidence of an organisational response and an attempt at resolution.
 - Indication that examples of alleged behaviour by the respondent(s) have been provided by the complainant including time, dates, location, names of witnesses, etc.
 - A copy of the written complaint signed by the complainant which will be forwarded to the Director of HR

- Complaint is formally investigated

- An investigation under this policy shall be the fact-finding investigation as required for the purposes of the Disciplinary Procedure

Director of HR appoints investigation team

26. The Director of HR will decide, upon receipt of the DP report and the written complaint, if a formal investigation is required in accordance with this policy. Both parties should receive a copy of his decision with the reasons for it
27. If the decision is taken to proceed with a formal investigation, the Employee Relations Manager will appoint a trained and gender balanced investigation team to examine the complaint as soon as possible, but no later than 15 working days from receipt of the DP report. If the decision is taken not to proceed with a formal investigation, it is open to the complainant to apply for a review of the decision under the Review Process specified in this policy.
28. The terms of reference defining the scope of the investigation, including indicative timelines, should be agreed between the investigation team and the Employee Relations Manager before commencement of the investigation and copied to the relevant parties. While it is recognised that the length of the investigation may be dependent on the complexity of the case, the number of witnesses etc., generally the time limit for the investigation should not, except in exceptional circumstances, exceed 6 months.
29. All participants should be reminded of the importance of confidentiality at all times during the investigation process.

Formal Investigation commences

30. All parties must fully engage with the investigation in order to avoid delays. An investigation team is entitled to draw conclusions from the failure to co-operate with the investigation (e.g. in the absence of an explanation by the respondent(s) that, on the balance of probability, the alleged incident(s) did occur). Failure to co-operate with the investigation may result in disciplinary procedures.
31. The complainant, the respondent(s) or any witnesses should be allowed to be accompanied during the investigation process by a person of their choice, such as a colleague, legal advisor or Trade Union representative.
32. If one of the parties involved in the investigation is absent from work due to sick leave, s/he should be referred to the University Occupational Health Physician service (OHP) as soon as possible but no later than 10 working days from the notification of the sick leave absence. The OHP should not only be asked about fitness

for work, but “fitness to participate” in the investigative process.

33. The investigation team should begin the investigative process with a thorough interview with the complainant to ascertain the facts related to the complaint. The complainant may be accompanied at this meeting by a person of their choice. This interview should seek to determine:
 - What precisely is alleged
 - Who was allegedly involved
 - When and where the alleged incident(s) occurred
 - Whether there were any witnesses to the alleged event(s)
 - Identify & obtain other Supporting evidence as appropriate
34. Following the interview with the complainant, the investigation team should meet with the respondent(s). The respondent may be accompanied at this meeting by a person of their choice, as under 31 above. The respondent(s) should be:
 - Informed of the allegations which have been made against them
 - Provided with a written copy of the complainant’s statement
 - Provided with an opportunity to comment on the alleged incident(s)
 - Asked to identify if there were any witnesses to the alleged events
 - Permitted to identify & provide other supporting evidence as appropriate
35. The complainant will be provided with a copy of the statement provided by the respondent(s) normally within 10 working days from the date of the interview of the respondent(s). Each party must be fully aware of the case that is being made by the other party. The investigation team should not take evidence into account without first obtaining what comments or reply may be made to that evidence by the other party or provided by other witnesses. It is important that both complainant and respondent have copies of all statements which may inform the investigation team’s decision.
36. Following the interviews with the complainant and the respondent(s), the investigation team should approach relevant witnesses named during the interviews, to obtain their account of events. It is for the investigation team to determine which witnesses need to be interviewed.
37. Witnesses should only be provided with information which is necessary to allow the investigation team to determine what occurred in relation to the allegation. Witnesses should also be informed that the investigation is a confidential process, and that they should not discuss the matter with other parties.
38. Both the complainant and the respondent(s) should be provided the opportunity to comment on the witness statements as soon as possible, but no later than 10 working days following receipt of the witness statements.

39. Either party may raise a concern with the investigation team that they consider a breach of the process to have occurred and have it noted at that time.
40. The investigation team should then consider all of the evidence which has been presented to them, in a bid to reach a conclusion on what transpired, and provide a written report to the Director of HR containing the findings of their investigation and any subsequent clarifications as may be required by the Director of HR. This outcome of the investigation should include one of the following outcomes
 - a) That, on the balance of probability the complaint is upheld for reasons which are stated
 - b) That, on the balance of probability the complaint is not upheld for reasons which are stated (cases where there was insufficient evidence to decide on the complaint are included in this category)
 - c) The investigation team may, depending on the circumstances, make a finding of 'no case to answer' where the complainant withdraws a complaint or refuses to engage with the investigation.

Role of Director of HR following receipt of Investigation team's report

41. The complainant and the respondent(s) should be informed in writing of the findings of the investigation by the Employee Relations Manager within 15 working days following receipt of the investigation report.
42. The complainant and the respondent(s) can comment on the findings of the investigation within 15 working days of notification of the investigation's findings.

The Director of HR should, within 15 working days of receipt of comments from both parties:

- Consider the findings of the investigation and comments provided by both parties
- Decide upon the outcome of the process
- Inform both parties if the matter is to be further pursued as a disciplinary issue or if other actions may be taken

- Application made to review decision

43. If the complainant or the respondent is dissatisfied with (a) the conduct of the investigation, or (b) the finding of fact, s/he can apply in writing, within 15 working days of receipt of the decision, to the Director of HR seeking a review to be carried out, clearly indicating the specific grounds for review.

It should be noted that this review will be a paper-based exercise and that the role of the Reviewers is not to re-investigate the incidents which gave rise to the complaint. Rather, the Reviewers shall consider:

- Whether the investigation has followed the correct procedures contained in this Policy
 - Whether the investigator's conclusions could or could not reasonably be drawn from the evidence on the balance of probability
44. Two Reviewers should be appointed from the agreed panel of external reviewers* normally within 10 working days of the application, to review the conduct and/or outcome of the investigation. The external reviewers will not have been involved in the initial investigation.
45. The Director of HR should inform the other party of the application for review and on what grounds this application has been made as soon as the application has been received.
46. The Reviewers should provide a report to the Director of HR containing their findings in relation to the procedures followed and conclusions which were drawn during the investigation.
47. The Director of HR should consider the findings of this report and decide upon an appropriate course of action.
48. The Director of HR should inform both parties of his/her decision, and the reasons behind the decision, no later than 10 working days from the date of their receipt of the Reviewers' report.
49. The University upholds the Principles of Natural Justice and fair procedure and nothing in this policy shall diminish a staff member's entitlement to refer matters to third party dispute resolution mechanisms such as the Rights Commissioner, WRC and Labour Court.

*The Panel of Reviewers will comprise of 8 suitably experienced external and independent persons (gender balanced). Four members of the Panel will be nominated by University management and four by the recognised trade unions. One from each group selected at random (gender balanced) will form the review team on any given case.

In the event that either the University nominated members of the panel or the Union nominated members of the panel are unavailable either the University or the Trade Union will seek an additional suitably experienced, external and independent individual to be part of the panel.

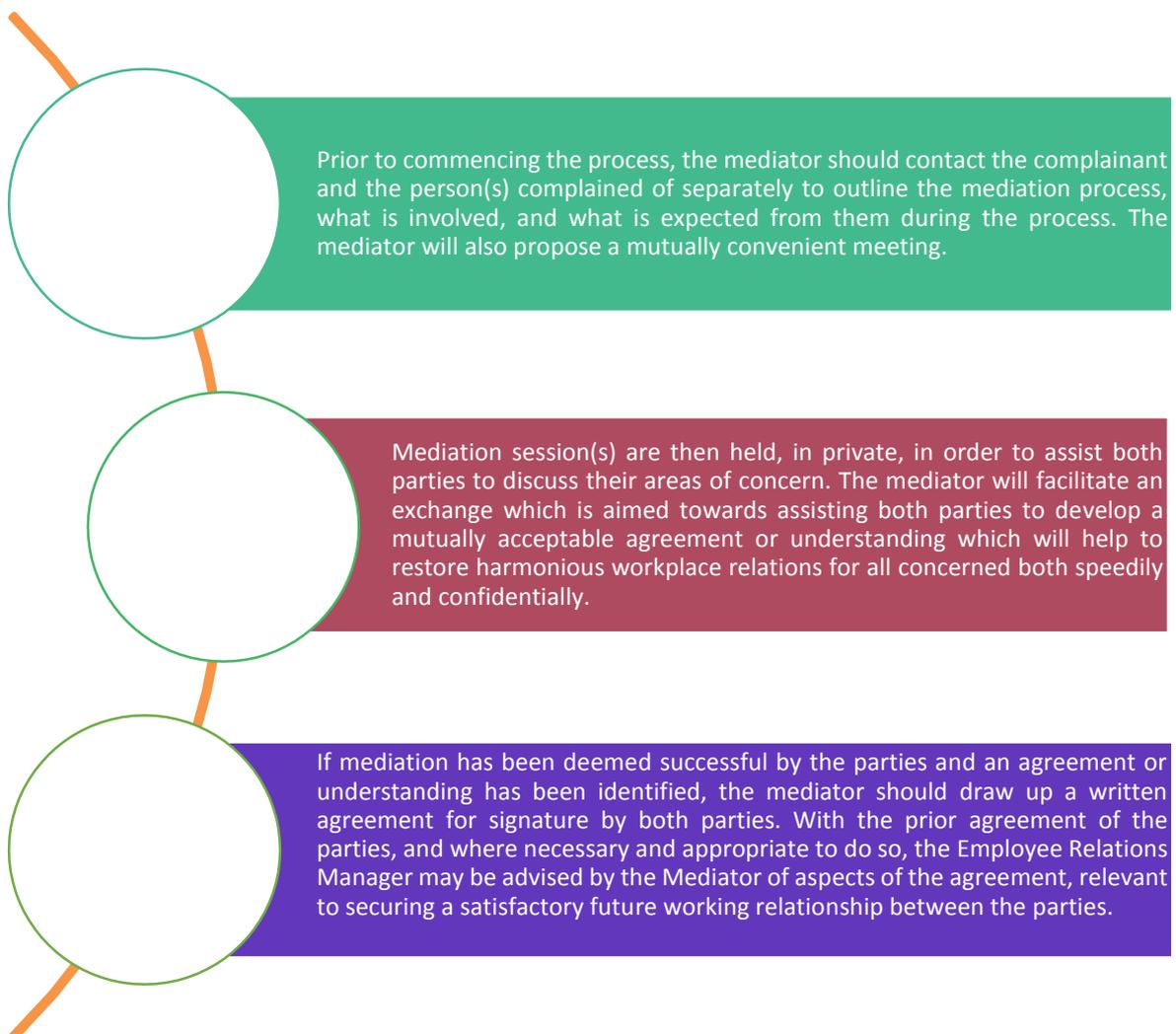
APPENDIX A - MEDIATION

Mediation is a voluntary and confidential process for solving disputes, which is available to parties at each stage of the complaints process.

Mediation is a process which allows all parties to have their views heard on issues of concern in a safe environment, which can help to deliver workable agreements which are agreeable to all parties.

Confidentiality is crucially important to the process and should be adhered to at all times.

Once Mediation has been requested, and where all parties agree to participate, the HR Manager should appoint a suitable qualified mediator, to commence the process.



What is Mediation?

Mediation is a voluntary confidential process that allows two or more disputing parties resolve their conflict in a mutually agreeable way with the help of a neutral third party, a mediator (Stein 1997).

Mediation focuses on the interests or needs of the parties and on solutions, not on determining or assigning blame. The mediator does not impose a solution but rather works with all parties to create their own solution.

Mediation Process

When a complaint is received by the Designated Person, by the Line Manager or by the Employee Relations Manager, the two parties involved will ordinarily be invited to participate in mediation. Alternatively (a) staff member(s) may seek mediation themselves to resolve the dispute, through HR. Mediation will be explained in detail to the parties involved so they can make an informed decision about this alternative method of resolving disputes or complaints.

If both parties agree to attend mediation then a mediator will be assigned and the parties informed. The mediator will contact both parties and arrange to meet them both separately initially. At these meetings the mediator will gain an understanding of the issues, ensure both parties understand mediation, what will be involved, and what is expected from them. After meeting both parties separately the mediator will then arrange a suitable time and venue for the mediation session(s) in the event that all parties, including the mediator, are willing to proceed.

The mediator will then bring both parties together to identify and discuss their areas of concern. The mediator facilitates this process without offering solutions, taking sides or making a judgement. The mediator assists each party to explain the problem to the other party as they see it. The mediator facilitates an exchange in which the parties identify the issues in dispute. The objective of mediation is to enable the parties involved to resolve matters speedily and confidentially, often without recourse to a formal investigation.

Benefits of Mediation

- Mediation is an empowering process, both parties are in control of the outcome.
- It creates a safe environment for both parties to talk about the issues and the impact on them to be heard.
- It is usually fast.
- Mediation is confidential and without prejudice.
- It is a voluntary process. Either party or the mediator can withdraw at any time from the process.
- The parties involved are in control of the decisions as opposed to a solution being imposed.
- Mediation encourages a positive approach to resolving disputes or difficulties.
- Having the mediator in the session to facilitate and control the process creates an environment of exchange, exploration, and resolution in safety.

Because the terms of agreement, if reached through mediation, are made up of the decisions of the parties themselves, there is a greater likelihood that they will continue to be adhered to, rather than in circumstances where solutions are imposed by third parties. Mediation agreements are binding on the parties.

Information Session on Mediation (for the parties involved)

Mediation is a process whereby an agreed, impartial, and suitably qualified mediator meets with both parties to try to help them to resolve the dispute, complaint or issue. The mediator usually meets each party separately to begin with, to get a sense of the issues and explain the mediation process. At this session each party can ask any clarifying questions. The mediator will outline what is expected from each party i.e.

- Confidentiality
- Respect for each other
- That each party will outline the situation and the issues as they see it
- That each party will listen to the other
- That each party will engage honestly in the process
- That each party be willing to explore options for resolving the issues
- That the mediator will control the process
- That the mediator will take note of agreements/decisions reached during the session
- That whatever is discussed in the mediation process cannot be disclosed or used in another forum
- That the mediator will not be required or permitted to give testimony at any other forum relevant to the dispute between the parties.

The mediator then arranges with both parties a suitable venue and time to meet together. The length of the meeting and breaks times will be agreed. If necessary/appropriate for a further meeting(s), day and time of the next meeting will be arranged.

During this mediation meeting both parties will outline the dispute or issues as they see it. The mediator will facilitate respectful dialogue and negotiation between the parties. The aim of the mediation is for the parties involved to reach agreement on how to resolve the dispute or issue.

Mediation may be invoked at any time in a dispute, however, other methods of dispute resolution (e.g. investigation or legal remedy) must be suspended to allow for mediation to proceed. In the event that either party withdraws from the mediation attempt the parties concerned are again free to pursue other courses of dispute resolution.

APPENDIX B – Role of the individual parties

Role of the Complainant

The complainant (the person making a complaint) will play an important role in the successful resolution of any bullying complaint. The individual should take some time to make themselves aware of this policy, and the options which are available to them.

There are a number of sources of support, advice and assistance available for individuals such as the Contact Person, Employee Assistance Programme, the Designated Person, HR Office and others. A list of useful contacts can be found in Appendix D of this document.

The complainant should make a reasonable and genuine attempt to fully participate in attempts at resolving the dispute.

The complainant must not engage in victimisation, intimidation or hostility towards the respondent or potential witnesses.

Where a complaint has been made (either formally or informally), the complainant should not discuss the matter with potential witnesses. This is necessary to avoid compromising the complaints process.

All parties should continue to work as normal during all stages of the process, unless directed otherwise.

Those involved in a complaint should be aware that confidentiality is of utmost importance. Malicious complaints may be viewed as misconduct. However, the mere fact that a complaint is not upheld (for instance, due to a lack of evidence) does not mean that a complaint will be regarded as malicious.

Role of the Respondent

Similar to the role of the complainant, the respondent (the person(s) complained of) will play an important role in the successful resolution of bullying complaints. Individuals involved should take the time to make themselves aware of this policy, and to make use of the many other sources of information and support during the complaints process.

There are a number of sources of support, advice and assistance available for individuals such as the Line Manager Contact Person, Employee Assistance Programme, the Designated Person, HR Office and others. A list of useful contacts can be found in Appendix D of this document.

The respondent should make a reasonable and genuine attempt to fully participate in attempts to resolve the dispute. It is important to note that presumption of innocence applies to the respondent at all stages of an investigation.

The respondent must not engage in victimisation, intimidation or hostility towards the complainant or potential witnesses. The presumption of innocence until proven guilty remains throughout.

Where a complaint has been made (either formally or informally), the respondent should not discuss the matter with potential witnesses. This is necessary to avoid compromising the complaints process.

Those involved in a complaint should be aware that confidentiality is of utmost importance.

All parties should continue to work as normal during all stages of the process, unless directed otherwise. As with the complainant, there are a number of sources of support, advice and assistance available for individuals such as the Contact Person, Employee Assistance Programme, the Designated Person, HR Office and others. A list of useful contacts can be found in Appendix D of this document.

Contact Person (CP)

The Contact Person (CP) is someone who is available to listen and provide information to those who are concerned about bullying in the workplace.

The CP will be able to explain the various resolution options, the potential supports which are available to individuals, and to explain the role of the various parties involved in the resolution process.

In all cases it must be ensured that the CP has the appropriate knowledge and skills for the role. Appropriate training will be provided by the University in this regard.

Contact details of nominated and trained CPs will be provided on the HR website.

It is not the role of the CP to become directly involved in the complaints procedure, nor to act as advocate for either party in a dispute.

Role of the Designated Person (DP)

The Designated Person (DP) is a new role as set out in the Health and Safety Authority's Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying and Harassment in the Workplace.

The DP will be a senior member of staff, who will oversee complaints which have been referred to the Human Resources Office, and who will receive appropriate training in this regard. This individual will play a pivotal role in ensuring that complaints are dealt with in a timely and efficient manner.

The DP will:

- Ensure that all parties have copies of this policy and any other relevant information
- Ascertain the details relevant to the complaint, the context, and advise on the potential resolution methods which may be explored
- Provide information on mediation to all parties involved in a dispute

- If complaints are in verbal format, make a written note of what is complained of, and give a copy to the complainant
- Make a record of steps which have been taken in the process, such as a records of meetings, actions agreed, and the final report to the Director of HR. The purpose of these records, which do not include details of the discussions, is to provide evidence of the complaint being met with an organisational response and attempt at resolution

Role of Line Manager

Line Managers are required to make both themselves and their direct reports familiar with this policy.

Line Managers have a duty of care to their staff, and are required to tackle bullying, harassment, and sexual harassment in the workplace. They should make a reasonable attempt to facilitate a harmonious work environment which promotes dignity and respect for all staff. All complaints regarding bullying must be treated seriously with due regard to the sensitivities of the complainant and to the rights of the alleged offender(s). All complaints should be dealt with promptly and sympathetically. Confidentiality should be adhered to by all parties involved in the complaint.

Line Managers should be approachable should any of their staff require advice regarding any aspect of this policy or regarding any potential incidents of bullying.

If approached by a direct report regarding a potential case of bullying, the Line Manager should;

- Speak to individuals on all sides of the complaint in an attempt to ascertain the details and context related to the complaint
- Attempt to facilitate local resolution of the issue
- Consider if mediation may facilitate a possible solution to the issue
- Alert the Human Resources Unit to cases which cannot be facilitated by local resolution or mediation
- Following the conclusion of the complaint or dispute resolution process, line managers should make appropriate attempts to restore reasonable working relationships within their area.
- Those who make a complaint in good faith, or who provide evidence in relation to a complaint in good faith, should not be victimised by Line Managers

Role of HR

Complaints which are referred to the HR Office should be treated as a serious issue. They should be dealt with in a prompt and sympathetic fashion. All complaints should be handled in confidence.

The Contact Persons will be appointed from within the organisation ensuring gender balance, the HR Office will circulate and publicise the relevant details on an annual basis. The HR Office must ensure that the Contact Persons have the appropriate knowledge and skills for the role.

Complaints of a potentially criminal nature should be passed onto An Garda Síochána by the Director of HR. Where internal investigations are required, the HR Office will pass on complaints to the Designated Person (DP) in the first instance, who will attempt to resolve the issue informally, and via mediation where possible. The HR Office must ensure that the Designated Person has the appropriate knowledge and skills for the role.

Where mediation and local resolution have been unsuitable or unsuccessful, the complaint will be returned to the Employee Relations Manager, with a report from the DP of the actions taken. If a formal investigation is required, the Employee Relations Manager should appoint an impartial and trained investigator to ascertain the facts and produce a series of recommendations. The Employee Relations Manager must ensure that the Investigator has the appropriate knowledge and skills for the role. The HR office will seek to identify suitable investigators and provide appropriate training to them, including regular refresher training.

In situations where the respondent is the complainant's Line Manager, the Director of HR may make appropriate alternative reporting arrangements pending the resolution of the complaints process

Following the investigation, the Director of HR will be required to determine whether the complaint should be upheld or not upheld, and decide upon a course of action, potentially invoking the Disciplinary Code.

The HR Office should maintain regular communication with the parties involved to keep them informed of progress. The HR Office should also play a role in the positive reinforcement of this policy on an annual basis among staff across the organisation, and advise and support line managers including the provision of training where necessary.

The HR Office should also take steps to ensure that a workplace free of bullying is maintained following the resolution of the complaint.

The Employee Relations Manager will provide a report to the University Management team on an annual basis of the number of bullying incidents reported, their outcome and ultimate resolution.

This Policy will be reviewed on a biennial basis in line with experience in the employment, changes in the law, relevant case law or other developments. The Director of HR will be responsible to ensure that ongoing monitoring & training take place.

The Employee Relations Manager will ensure that this policy is made available to all staff regardless of employment status. In accordance with the H&S Code of Practice, it will also raise awareness of the issue by inclusion in staff bulletins, training, at recruitment stage and using any other appropriate method. Each unit will be provided with training on dignity at work and associated relevant policies at least once every two years.

Role of the Investigation Team

The investigation team will comprise of two staff members (gender balanced) drawn from a panel of trained volunteer investigators across the university. They will not be assigned to an investigation where a conflict of interest exists or is perceived to exist by either or both of the parties. They will carry out a full and thorough investigation of the allegations and Provide a report to the Director of HR as outlined at section 39 of this policy.

Role of the Review Team

The review team will comprise of two people (gender balanced) selected from a Panel of Reviewers to carry out a paper based review of the complete file.

The Panel will comprise of 8 suitably experienced external and independent persons (gender balanced). Four members of the Panel will be nominated by University management and the remainder by the recognised trade unions. One from each group selected at random (gender balanced) will form the review team on any given case.

APPENDIX C – Self Audit Checklists

Self-Audit Checklist for the Complainant

Experiences of bullying can be difficult to define and explain to third parties. Recalling incidents of this nature may be quite troubling, frustrating or upsetting. Summarising these events or experiences into a complaint which can be fully understood by others can be a difficult exercise.

Therefore completing the following checklist may assist individuals to reflect upon their situation, determine what they have experienced and if it may fall into the category of bullying as defined previously in this policy. Alternatively other policies may be more appropriate. Please consult the HR section of the University website for more details.

The following is for personal use, and will not be recorded or reviewed by any other party unless you as an individual choose to disclose it. While respecting the confidential nature of the process, you may wish to share this information with any/all of the following before making a complaint: a trusted friend, colleague, trade union representative, line manager, Contact Person, a member of the EAP.

The individual may wish to consider the following:

- Have I read the Staff Anti-bullying Policy as a basis for considering my options?
- Does the behaviour I am concerned about match the definitions of bullying as set out in this policy?
- How has the behaviour I have experienced affected me?
- Could the behaviour I experienced reasonably be regarded by an objective person as inappropriate, offensive, humiliating, intimidating, or threatening?
- If considered to be bullying, has the behaviour I am concerned about been repeated?
- Was the behaviour I am concerned about part of the normal disciplinary or PMDS procedures? Was the feedback given in an appropriate and respectful manner?
- If I do not believe my experience can be defined as bullying, may the behaviour be considered to be general workplace conflict and if so, have I explored the options available to me for resolution of these issues?
- Can I resolve the situation or stop the behaviour by speaking to the person directly, and requesting that they stop this behaviour?
- If I cannot approach the individual personally, can I ask my manager to do so on my behalf?

- If I am unable to discuss the matter directly with the person concerned, could I discuss the matter with another appropriate line manager?
- Were there any witnesses to the alleged behaviour?
- Have I kept a record of the behaviour or incident(s), including times, places, names of witnesses, or written communications?
- Have I discussed the situation and options with someone I trust?
- Am I prepared to engage in dialogue and other efforts to resolve the situation, such as mediation?
- Would I benefit from speaking to someone from the Employee Assistance Programme?

Self-Audit Checklist for the Respondent

Accusations regarding bullying can be as stressful for the person(s) complained of, or potential witnesses as for the complainant. It may be beneficial to complete the following checklist, which may help you to reflect upon your situation, define the problem and to consider whether any of your behaviours might be perceived as bullying.

The checklist is a tool for your personal reflection and is not recorded or reviewed by any other person unless you choose to disclose it. You may wish to share this information with a trusted friend, colleague, union rep, line manager etc. in order to evaluate your options as set out in this policy.

In considering options to resolve your current situation you may wish to consider the following, or discuss these points with an appropriate contact person or manager.

- Have I read the Staff Anti-bullying Policy as a basis for defining bullying?
- Could my behaviour which has been complained of objectively be viewed as humiliating, intimidating or threatening?
- Is it possible that the tone or volume of my voice or my body language could ever be perceived as offensive, humiliating, intimidating or threatening?
- Could my communication or management style ever be perceived as offensive, humiliating, intimidating or threatening by someone else?
- When I feel angry, stressed or anxious, could my feelings be exhibited in a way that others might find offensive, humiliating, intimidating or threatening?

- Could the way in which I provide feedback on people's work, or monitor their performance, ever be perceived as overly critical or excessive by someone else?
- Have I excluded a particular staff member from essential information or meetings?
- Could targets or deadlines I have set be perceived by others as impossible?
- Having read the policy, could my behaviour be perceived as matching the definitions of bullying?
- Is it possible that my behaviour towards the complainant has been repeated?
- Do I have any records of previous interactions I have had with the complainant?
- Was the behaviour that has been perceived as bullying part of the normal disciplinary or performance feedback procedure?
- Have I discussed the situation and options with someone I trust, and may I benefit from doing so?
- Would I benefit from speaking to someone from the Employee Assistance Programme?
- Would I benefit from receiving advice from my trade union representative or legal advisor?

APPENDIX D – Supports for Staff

Employee Assistance Programme (EAP)

In addition to the role of Contact Person, the EAP provides a wide range of free and confidential supports to all staff, including line managers, designed to assist employees in managing work and life difficulties which, if left unattended, could adversely affect work performance and/or attendance and quality of life.

Role of the EAP in relation to the Staff Anti Bully Policy Policy

The EAP is available to offer support to any member of staff who:

- Experiences a conflict situation and/or interpersonal/communication difficulties in the workplace
- Feels s/he is being subjected to bullying
- Has had an accusation of bullying made against him/her
- Is a line manager who may need support or guidance in resolving issues arising from conflict, interpersonal difficulties, bullying
- Is a colleague affected in such circumstances
- Is asked to be a witness in an alleged bullying complaint.

What the EAP can offer

When an individual engages with the EAP, it can provide

- Assistance in evaluating and assessing difficulties
- Help in exploring the issues and possible options for resolution
- Help in planning a structured approach to coping with and resolving issues
- Signpost to other resources
- Referral to external agencies as appropriate and in agreement with the individual (cost, if any, in such referrals will be borne by the individual concerned)
- Information on relevant policies, conflict resolution and mediation

In the interest of impartiality where two or more parties are involved in a situation where there is conflict, interpersonal difficulty, alleged bullying, each party can avail of the support of the EAP.

A line manager can consult the EAP where s/he is dealing with staff members in relation to any of the foregoing issues for support and advice in trying to bring about a resolution.

A line manager can also advise the individual(s) of the availability of the EAP as a support. Where appropriate the line manager can formally refer the individual(s) to the EAP.

EAP Confidentiality

Professional standards apply in relation to confidentiality. Confidentiality is between the individual and the EAP. Information and personal data disclosed by employees to the EAP remains confidential (exceptions are listed below) and will not be disclosed to a third party without the prior knowledge and consent of the individual.

Exceptions to confidentiality

- Life-threatening situations to the individual, other parties or the public
- Where there is a statutory responsibility to report
- Where required by a court or legal process to do so
- Where non-disclosure of information could compromise the EAP
- Where the EAP becomes aware of a breach in criminal law, disclosure may be necessary

Where an individual is formally referred to the EAP by line management, HR Office, confirmation of attendance/engagement will be given to the referring party and any proposed feedback and/or progress reports will be agreed with the staff member.

Full details on the EAP are available on the HR Website at http://www.nuigalway.ie/human-resources/employee_wellbeing/eap/

APPENDIX E – Useful links

- NUI Galway HR Website

<http://www.nuigalway.ie/hr/>

- NUI Galway EAP access details.

http://www.nuigalway.ie/human-resources/employee_wellbeing/eap/

- Health and Safety Authority – Guidelines on Bullying at Work

http://www.hsa.ie/eng/Workplace_Health/Bullying_at_Work/

- Services Industrial Professional & Technical Union (SIPTU)

<http://www.siptu.ie/>

- Irish Federation of University Teachers (IFUT)

<http://www.ifut.ie/>

- Technical Engineering & Electrical Union (TEEU)

<https://www.teeu.ie/>

- Unite

<http://www.unitetheunion.org/>

Contact Persons List

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