



# MTU

Ollscoil Teicneolaíochta na Mumhan  
Munster Technological University

## Dignity and Respect Policy

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[www.mtu.ie/policies](http://www.mtu.ie/policies)

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## **1 Introduction**

- 1.1 MTU is committed to creating a positive culture which recognises and reflects the dignity of each member of the MTU community, by the promotion of good and professional behaviour and attitudes, embracing diversity, encouraging each person to reach their potential, and fostering social inclusion and equality. The staff and students of the MTU are its greatest assets and all members of the University community should expect to be able to excel, and to be respected and valued for their unique perspectives, traditions, and contributions.
- 1.2 The purpose of this policy is to prevent a culture of bullying, harassment, victimisation, and sexual harassment arising in the first instance. This policy is also designed to assure, members of staff and students who are subjected to such behaviour, that action will be taken to end such abusive and offensive behaviour. The policy ensures that all reasonable efforts are made by managers to prevent such behaviour arising and to deal with complaints of bullying, harassment, victimisation, and/or sexual harassment.
- 1.3 MTU promotes, and is committed to supporting, a collegiate environment for its staff, students, and other community members, which is free from inappropriate behaviour.
- 1.4 MTU is committed to taking positive measures to educate all staff on bullying, harassment, victimisation and sexual harassment and the effects of this type of behaviour. MTU is committed to bringing the policy to the attention of managers, staff, customers, clients, and other business contacts. This will be achieved by:
- Awareness raising for staff and students
  - Awareness training for mixed staffing groups and/or School/Department/Functional teams.
  - Training managers/supervisors on how best to promote a positive working environment, their responsibilities under this policy and how to deal with complaints.
  - Publishing the policy on the MTU website.
  - Displaying Dignity and Respect Code of Behaviour posters throughout each campus.
- 1.5 All members of MTU are expected to work to develop and maintain a high degree of respect and civility in our diverse community and to participate in creating a positive environment. This does not affect academic freedom, the values of free open enquiry and discussion of ideas.
- 1.6 MTU has developed this policy and its associated procedure for preventing bullying, harassment, victimisation, and sexual harassment, in the workplace and for dealing with such complaints which arise between members of MTU as defined in section 4. There are a number of processes under the procedure to resolve dignity and respect issues. Complaints of inappropriate behaviour, bullying, harassment, victimisation, and/or sexual harassment will be treated seriously and with due regard for the rights and sensitivities of the complainant

and the respondent. Complaints will be dealt with promptly and sympathetically. Every effort will be made to handle complaints in strict confidence.

- 1.7 MTU promotes and encourages the resolution of dignity and respect complaints through informal means in so far as possible.
- 1.8 MTU wishes to acknowledge Trinity College Dublin's Dignity and Respect Policy and the Technological University of Dublin's Dignity and Respect at work policy which were referenced in developing this policy.

## **2 Legislation**

This policy is in compliance with the recommendations of the Government Task Force Report on Bullying in the Workplace (2001) and is also underpinned by the following legislation and codes:

- Employment Equality Acts, 1998 to 2015
- Equal Status Acts, 2000 to 2018
- Disability Act, 2005
- Health and Safety Act, 2005
- Health and Safety Authority's Code of Practice on the Prevention of Workplace Bullying
- Equality Authority's Code of Practice on Sexual Harassment and Harassment at Work
- Workplace Relations Commission's Code of Practice on Procedures for Addressing Bullying in the Workplace
- Code of Practice Applying to the Employment of People with Disabilities
- Procedural Agreements with the trade unions

## **3 Statutory Rights**

Nothing in this Policy seeks to limit any statutory rights of staff or students. A staff member or student who is not satisfied with the outcome of an investigation may take alternative action as provided under relevant legislation. Strict time limits can apply for complaint mechanisms provided by statute.

## **4 Statement of Policy**

- 4.1 Staff and students of the MTU have a right to be treated with dignity and respect. MTU is committed to ensuring that staff and students can work and learn in a positive and safe environment which is free from all forms of bullying, harassment, victimisation, and/or sexual harassment.
- 4.2 Bullying, harassment, victimisation and/or sexual harassment in any form is not acceptable and will not be tolerated, whether it is carried out by a member of staff, student or member of the public interacting with staff and students of the MTU.
- 4.3 Complaints against staff which are upheld in the context of this policy and its related procedure may constitute grounds for invoking the nationally agreed disciplinary procedures which may result in sanction up to and including dismissal. This policy does not affect statutory rights under the Employment Equality Acts, 1998 to 2015 and the Equal Status Acts, 2000 to 2018.
- 4.4 Complaints against students which are upheld in the context of this policy and its related procedure may constitute grounds for invoking student disciplinary procedures which may result in sanction up to and including expulsion.
- 4.5 At all times the principles of natural justice and presumption of innocence will apply.
- 4.6 Complaints of bullying, harassment, victimisation, and/or sexual harassment will be treated with fairness, and sensitivity for all parties concerned.
- 4.7 Any person accused of bullying, harassment, victimisation, and/or sexual harassment will be afforded natural justice and treated with fairness and sensitivity.
- 4.8 There is a time limit of 6 months from the date of the alleged incident for the making of the initial complaint. This can be extended up to 12 months where exceptional circumstances prevent the complainant from making the complaint.
- 4.9 Individuals who feel bullied or harassed may opt to have their concerns addressed by informal or formal means. It is preferable that matters are resolved without recourse to the formal process but sometimes, it may be appropriate for the formal process to be invoked from the outset.
- 4.10 A complainant's rights are protected under this policy and they will not be penalised for making a complaint in good faith.
- 4.11 Invoking the Dignity and Respect Policy and Procedure will not affect the complainant's right to make a complaint under the relevant legislation.

- 4.12 Raising a false or malicious allegation is a serious breach of this policy. Complaints which may be considered to be malicious or vexatious may be treated as serious misconduct under the Disciplinary Procedures. However, this provision should not deter staff or students from reporting genuine complaints and they will not be subjected to disciplinary action or to any other detriment simply because their complaint is not upheld. The complainant will only face disciplinary action if there are good reasons to suspect that the allegation is both false and made in bad faith (that is, without an honest belief in its truth.)
- 4.13 Where a complaint is not upheld following formal investigation, this does not necessarily mean that the complaint is malicious or vexatious.
- 4.14 MTU will seek to protect all of the parties involved in an investigation from victimisation and from any negative impact on their day to day work or study. It is expected all parties will act in a courteous and respectful manner during the process. Parties may be asked to minimise contact with each other, other than the day-to-day professional interactions that are required in their roles as staff or student. It will be considered a disciplinary offence to victimise or retaliate against a complainant for bringing a complaint.
- 4.15 Confidentiality will be observed in matters connected with any bullying, harassment, victimisation, and/or sexual harassment allegations, investigations, and outcomes in so far as practicable. This confidentiality extends after conclusion of a formal investigation. Any persons (i.e. complainant, respondent, witness(s), investigator, other staff, and students involved) found to be in breach of confidentiality relating to a formal investigation will be dealt with through the Disciplinary Procedures or other appropriate remedial measures. The commitment to treat information with complete confidentiality however cannot be absolute where there may be a threat to life or potential harm to another party.
- 4.16 Bullying, harassment victimisation and/or sexual harassment of staff or students by employees of other organisations, customers, business contacts or students from other organisations will not be tolerated. Where there is a complaint against such persons, appropriate remedial measures will be taken to protect staff and students from being bullied or harassed. The staff members' direct line manager or above and or the student's Head of Department will ensure that the matter is dealt with in so far as possible given that such a respondent is not an MTU staff or student member.
- 4.17 If a non-staff/student member feels that they have been subjected to inappropriate behaviour by a staff member or a student of the MTU, they should bring the matter to the attention of the line manager of that staff member or student's Head of Department and the appropriate procedure will be invoked.

## 5 Scope of the Policy

5.1 This policy applies to staff, registered students, and others on MTU business or engaged in activities relating to the MTU or providing services to the MTU in all locations and situations, including:

- The MTU campus, buildings/centres in all locations
- The campus of any other Institute or other place where staff or students are representing MTU
- At events such as social events, conferences, sporting events, field trips or work assignments which are related to MTU, to a person's work /study, or at which a person is representing MTU
- To written, email and telephone communications, use of the internet, and social media in relation to any MTU related activity.

5.2 An act of bullying or harassment can occur outside the MTU premises, and may be dealt with under this policy, provided the incident occurs at a university related event.

5.3 For the purpose of this policy a student is normally considered registered from the date of registration to the end of the academic year (defined as the date that all examination processes have been completed) or the date a student is withdrawn from a programme.

Exceptions to this include:

1. Continuing students
2. Students who have registered for repeat examinations
3. Students in the final year of a programme who will complete on graduation. In this instance, registration will be deemed to have lapsed on the date of graduation.

Students who have been granted a full deferral will be treated as withdrawn from the date of the decision.

**Note:** In cases 1 and 2 above, registrations will be deemed to have lapsed by September 30<sup>th</sup> of the following academic year unless the student has re-registered on an MTU programme.

## 6 Explanations/Definitions

### 6.1 Bullying and Harassment

6.1.1 **Bullying and harassment** can be broadly characterised as behaviours which are unwanted, unwelcome, and intimidating or offensive to the recipient. It is the unwanted nature of the contact that distinguishes bullying, sexual harassment, and other forms of harassment from friendly behaviour which is welcome and mutual. The intention of the perpetrator is irrelevant.

6.1.2 The effects of bullying and harassment are varied. Bullying and harassment can be devastating and destructive for the victim, in both work and personal life. It affects the physical and mental well-being of the victim. Loss of self-confidence, low self-esteem, stress, and depression are just some of the health effects associated with long-term exposure to bullying/harassment. Bullying and harassment are defined by the impact of the behaviour on the recipient rather than the intention of the perpetrator. The effect of the behaviour on the person concerned is what is important. It is up to each person to decide what behaviour is unwelcome, irrespective of the attitude of others to the matter.

### 6.2 Definition of Bullying

6.2.1 For the purpose of this policy the **definition** of bullying is as follows:

*Bullying is **repeated** inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others which could reasonably be regarded as undermining the individual's right to dignity. An isolated incident of the behaviour described in this definition may be an affront to a person's dignity but, as a one-off incident, is not considered to be bullying. (Report of the Task Force on the Prevention of Workplace Bullying, (2001))*

6.2.2 The following does not constitute unacceptable behaviour:

- The proper exercise of authority by MTU staff
- Constructive and fair criticism of a student's conduct or performance delivered in a professional manner. This feedback may be from a staff member, from a peer in a group work situation, or from fellow committee/team members in a Club or Society.
- Constructive and fair criticism of a staff member's work performance or conduct provided in a reasonable manner or any appropriate action taken by managers under any specified policy

### 6.2.3 Examples of Bullying

Behaviour that constitutes bullying may be physical, non-physical, or verbal. In all forms of bullying, the determining factor is the repeated and persistent nature of the unwanted and offensive behaviour against an individual or group.

Bullying can include conduct offensive to a reasonable person, e.g. oral or written slurs, physical contact, physical abuse or threats of abuse gestures, jokes, displaying pictures, flags/emblems, graffiti or other material which state/imply prejudicial attitudes which are offensive to fellow employees.

A non-exhaustive list of examples of bullying behaviour includes:

- Shoving, jostling
- Interfering with personal property or workstation
- Persistent unjustified criticism and sarcasm
- Verbal abuse including shouting, use of obscene language and spreading malicious rumours.
- Instantaneous rage, often over trivial issues
- Making it difficult for staff/students to have access to necessary information
- Deliberately and maliciously withholding work-related information in order to undermine a colleague
- Unfair delegation of duties and responsibilities including but not limited to setting unreasonable or impossible work deadlines or task
- Removing areas of responsibility and imposing menial tasks, unfair or unjust manipulation of a person's workload including timetable.
- Higher levels of scrutiny of an individual staff member work by comparison with others and/or persistently and inappropriately finding fault with a persons' work and using this as an excuse to humiliate the person.
- Private or public humiliation
- Deliberately ignoring or excluding an individual on a persistent basis
- Repeated use of offensive language directed at an individual or individuals
- Personal insults, such as name-calling, sneering, continued and deliberate staring
- Insulting or unnecessarily commenting on the appearance of another person
- Repeated put-downs, humiliation, offensive jokes, belittling efforts
- Repeated verbal abuse
- Making an individual, his or her beliefs or opinions the butt of jokes or uncomplimentary remarks which are likely to cause offence;
- Written insults, including electronic communication and publishing material that is defamatory, abusive, or offensive in relation to any staff/student member
- Inappropriate overruling or undermining of a person's authority
- Spreading malicious rumours
- Derogatory graffiti
- Threatening behaviour/unwanted behaviour or aggressive behaviour

This Policy shall be interpreted with consideration of the fact that behaviour which is acceptable to one individual may be reasonably regarded as being offensive to another.

### 6.3 Definition of Harassment

The definition of harassment as outlined in the Employment Equality Acts 1998-2015 will apply as follows:

*“Harassment is any form of unwanted conduct, related to any of the nine discriminatory grounds and being conduct 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.”*

The Equality Act 2004 extended the definition of harassment to include discrimination which arises where one of the nine grounds is imputed to a person or where a person who is associated with another person, and is treated by virtue of the association, less favourably than another person.

Discrimination is defined in the Equality Act 2004 as the treatment of a person in a less favourable way than another person was, is or would be treated on nine distinct grounds:

- Gender
- Age
- Disability
- Family status
- Marital status
- Membership of the Travelling community
- Race, ethnic origin, or colour
- Religion
- Sexual Orientation

**Harassment** may consist of a single incident or **repeated** inappropriate behaviour.

Many forms of behaviour may constitute harassment including:

- Verbal harassment – jokes, comments, ridicule, or songs
- Written harassment – including electronic communication
- 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
- Unfair treatment caused by membership or affiliation of an organisation
- Pressure to behave in a manner that the person thinks is inappropriate, for example, being required to dress in a manner unsuited to a person’s ethnic or religious background.

**Harassment** may consist of a single incident or **repeated** inappropriate behaviour.

## 6.4 Definition of Sexual Harassment

For the purpose of this policy, the definition of sexual harassment as outlined in the Employment Equality Acts 1998 -2015 will apply as follows:

*“Sexual harassment is 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 material.”*

Sexual Harassment may consist of **a single incident** or repeated inappropriate behaviour. The legislation applies to incidents of a sexual nature between people irrespective of gender. Note that sexual harassment is not necessarily harassment in the sense of this policy as defined in section 6.3. In particular, an instance of sexual harassment is not necessarily linked to the nine discriminatory grounds of the Employment Equality Acts 1998-2015.

Sexual harassment may take many forms, for example:

- Sexual jokes, stories, comments, use of electronic communication for inappropriate suggestive comments, unwelcome comments about dress or appearance.
- Display of offensive pictures, slogans, graffiti, written suggestive materials, etc. through electronic mail or otherwise (including a display of pornographic or sexually suggestive pictures or objects).
- Asking personal questions, telling lies or spreading rumours about a person’s sex life.
- Unwanted physical contact ranging from unnecessary touching to assault.
- Persisting in unwelcome attempts to form or continue a relationship from which the consent of one party has not been given or has been withdrawn.

## 6.5 Definition of Victimisation

In the context of this policy, victimisation occurs when one is threatened, treated adversely, or dismissed/disciplined for the following reasons (protected acts), including but not limited to:

- An MTU member (staff or student) is making a complaint under the Dignity and Respect Procedure.
- An MTU member is involved in a discrimination/dignity and respect case.
- An MTU member has helped a co-worker/student to make a complaint of discrimination /bullying/harassment etc.
- An MTU member has been a witness in a dignity and respect related case.
- An MTU member has taken a dignity and respect related case or other complaint to court.
- An MTU member has informed MTU of an intention do any of the things mentioned in this list.

## **7 Assault, including Sexual Assault**

- 7.1 When a student or staff member makes a complaint of assault, the possibility of reporting the matter to An Garda Síochána should be raised with the complainant and they should be provided with the necessary support if they choose to do so.
- 7.2 If the complainant does not wish to report the matter to An Garda Síochána, then in most cases that wish should be respected.
- 7.3 In certain circumstances, however, the incident should be reported to An Garda Síochána. The risk of reporting the matter to An Garda Síochána contrary to the complainant's wishes should be weighed up against the risk to safety of the complainant and other members of MTU including third parties, if the matter is not reported to An Garda Síochána.
- 7.4 In cases where An Garda Síochána are involved, the case should be taken over by the President/AASAM/HRM where appropriate, who should discuss the disciplinary process with An Garda Síochána. An Garda Síochána must be consulted to ensure that any investigations carried out at MTU will not prejudice any criminal process.

## **8 Role of Every Individual**

- 8.1 All members of MTU share the responsibility for ensuring an environment that protects the dignity and respect of its members. Care needs to be taken not to cross the line into unacceptable behaviour, which might be regarded as offensive, abusive, intimidating, malicious or insulting. In any case, such behaviour should stop immediately when advised that it is unacceptable. This responsibility extends to an awareness of the potential impact of personal behaviour on others and how it may cause offence and/or result in them feeling uncomfortable or threatened.
- 8.2 Individual members of the MTU also have a responsibility to help to ensure that unacceptable behaviour does not continue unchecked or unreported. Individual responsibility includes awareness of one's own behaviour and its potential effects on others.
- 8.3 It is essential that members of MTU should:
- Be aware of their own behaviours.
  - Not let the situations persist.
  - Not participate in gossip/rumour and respect the confidentiality of the process.
  - Comply with this policy.

## **9 Specific Roles and Responsibilities of Staff**

- 9.1 All staff share a responsibility for ensuring that the university is free from any form of bullying, harassment, victimisation, and sexual harassment.
- 9.2 Staff should treat fellow colleagues, staff, and students from other Institutes, TUs and Universities and non-staff with dignity and respect.
- 9.3 All staff should make themselves aware of and cooperate fully with the Dignity and Respect policy and procedures.
- 9.4 Staff should confidentially inform a manager if they are concerned that a member of MTU is being bullied, harassed and/ or sexually harassed.
- 9.5 Staff should respond promptly to complaints of bullying, harassment, victimisation, and/or sexual harassment.
- 9.6 Staff should be prepared to co-operate fully with any formal investigation set up under this policy. Failure to do so may be dealt with under the Disciplinary Procedures.
- 9.7 In order to eliminate any instances of bullying, harassment, victimisation, and/or sexual harassment it is critical that all staff attend Dignity & Respect training as provided.

## **10 Roles and Responsibilities of Students**

- 10.1 All students share a responsibility for ensuring that the university is free from any form of bullying, harassment, victimisation, and/or sexual harassment.
- 10.2 Students should treat fellow students, students from other Institutes, TUs and Universities and staff and non-staff with dignity and respect.
- 10.3 Students should make themselves aware of and cooperate fully with the Dignity and Respect policy and procedures.
- 10.4 Students should confidentially inform their Head of Department if they are concerned that a member of MTU is being bullied/harassed/sexually harassed or victimised.
- 10.5 Students should respond promptly to complaints of bullying, harassment, victimisation, and/or sexual harassment.
- 10.6 Students should be prepared to co-operate fully with any formal investigation set up under this policy. Failure to do so may be dealt with under the Disciplinary Procedures.

## 11 Role of all Managers

11.1 Leaders have a particular responsibility to ensure the policy is upheld and to deal promptly and effectively with any dignity and respect issues of which they are aware. This includes but is not limited to:

- Fostering a culture of dignity and respect in MTU.
- Responding sensitively and promptly to any staff member/student who makes a complaint, and ensuring they are not victimised for making a complaint.
- Facilitating informal resolution of complaints.
- Providing referrals for all parties (i.e. complainants, respondents, and witnesses) to Contact Persons/Supports/Human Resources.
- Being vigilant to ensure that the unwelcome behaviour does not reoccur.

It is the specific responsibility of **managers** to:

- Familiarise themselves with this policy and uphold it as an integral part of their work.
- Manage a complaint under this policy with integrity and fairness and maintain objectivity.
- Communicate policy to staff and students.
- Be vigilant for signs of bullying, harassment, victimisation, and/or sexual harassment.
- Take necessary action in any instance where inappropriate behaviour is observed or brought to their attention.
- Provide a good example by treating all in the workplace with dignity and respect.
- Take necessary action in any instance where inappropriate behaviour is observed or brought to their attention.
- Respond promptly and sensitively to complaints of bullying, harassment, victimisation, and/or sexual harassment.
- Respond sensitively to the person making the complaint and also to the respondent to the complaint of bullying, harassment, victimisation and/or sexual harassment.
- Manage complaints of bullying, harassment, victimisation, and/or sexual harassment informally where appropriate.
- Explain to a complainant the procedures they must follow if they wish the complaint to be formally investigated including an encouragement to him/her to attend an informal meeting with the respondent.
- Ensure, insofar as practicable, that the complainant or staff member or student who brings a matter of concern to their attention is not victimised.
- Ensure, insofar as practicable, that a respondent to a complaint is not victimised because of it.
- Monitor and follow up situations after a complaint is made to ensure that it does not reoccur.

11.2 It is not the role of a manager who is endeavouring to manage a complaint informally to determine if bullying, harassment, victimisation, and/or sexual harassment took place.

11.3 Any manager who is found to have reneged on their responsibilities under section 11 may be subject to the Disciplinary Procedures.

## **12 Role of Human Resources Manager (HRM) and Academic Administration and Student Affairs Manager (AASAM)**

12.1 The HRM will normally oversee the implementation of the policy in relation to the staff cohort and the AASAM will normally oversee the implementation of the policy in relation to the student cohort.

12.2 In cases which involve staff and students, they will jointly oversee the implementation of the policy.

12.3 In addition, they will have the following roles:

- Responsibility for raising awareness of the policy and procedures and development of best practice amongst the different cohorts.
- Providing referrals to appropriate support services e.g. the Employee Assistance Service (EAS), Occupational Health Service (staff) and internal or external counselling (students).
- Arranging mediation for cases as required.
- Recommending appropriately qualified investigators for all complaints (staff/staff, staff/students, and students/students) as required and to make arrangements for the investigation.
- Facilitating the appeals process should it arise.

12.4 The HRM will be specifically responsible for

- Co-ordinating and providing training to the Panel of Contact Persons.
- Providing advice and training to Heads of Function/Managers on handling dignity and respect matters.
- Advising on the operation of the policy and the processes available for the progression and resolution of dignity and respect matters.

## **13 Role of Trade Unions, Student Unions**

Trade Unions and the Student Union play an important role in providing information, advice, and support to staff and students, respectively. They should encourage their members to consider becoming Contact Persons for Dignity and Respect.

Representatives are required to co-operate with efforts by Heads of Function/Managers to resolve complaints under the policy. If the complaint is referred for formal investigation, staff/student

representatives are required to co-operate fully with attempts to conduct the investigation fairly, reasonably and without undue delay.

## **14 Role of Contact Persons**

14.1 The Contact Persons are specially trained staff and students who act as a listening ear, and are trained to provide non-directive advice, information and support to staff or students on this policy. They undertake this role on a voluntary basis and will accept cases on a discretionary basis.

14.2 They provide options and potential for resolution of issues in a positive, solution focused manner. Contact Persons do not operate in a representative capacity and will not be interviewed or be involved in the formal investigation process.

14.3 Their role is to:

- Listen to the person's concerns.
- Advise on the operation of the policy and of the options available under the policy for resolving dignity and respect matters.
- Advise and give information on other sources of help e.g. Employee Assistance Service, Student Counselling/Health Centre.
- Be an information source for the staff member or student who believes that they are being treated in a bullying manner or being harassed or sexually harassed.
- Be an information source for the staff member or student who is being accused of unacceptable behaviour.
- Support and guide the staff member or student in informally resolving the issue, which may include them approaching the person causing the offence.
- Assist the staff member or student to gain clarity around the changes in behaviour they are seeking.
- Outline the options available to the staff member or student in handling the situation.
- Help the staff member or student to think through their options by examining the benefits and consequences of a specific action or inaction.
- Allow the staff member or student to decide for themselves the next step they wish to take.

14.4 The role of the Contact Person does not involve:

- Intervening or approaching any individual on behalf of a staff member they are supporting.
- Acting as a representative or colleague in a formal investigation.
- Having a role in the management of a complaint.
- Providing legal advice or a solution to the issue.
- Providing counselling.

- 14.5 The Contact Person will treat all contacts made on a strictly confidential basis and no information is passed to any third party without the permission of the staff member or student. The commitment to treat information with complete confidentiality however cannot be absolute where there may be a risk of suicide, threat to life or potential harm to another party. In these instances, the Contact Person will need to seek advice immediately as to how to proceed from the HRM and/or the Employee Assistance Service.
- 14.6 All parties (a complainant, the respondent and any witnesses) can approach a Contact Person. Note: A Contact Person will not provide advice to both the complainant and the respondent involved in a dignity and respect issue. In this regard it is advisable to first make contact with the Contact Person prior to sending them any details on the issue.
- 14.7 A list of Dignity and Respect Contact Persons is available on the MTU website.

## **15 Policy Review**

The policy will be subject to continuous assessment and evaluation and will be reviewed formally at least once every 3 years. As this policy applies to all staff and students the review group will consist of the MTU's IR forum members and members of the Students Union.

## **16 Records**

- 16.1 All investigation material, and where applicable, disciplinary material will be retained on a strictly confidential basis, by the HRM/AASAM on the relevant campus in compliance with the Records Retention policy of the MTU and also in accordance with the Data Protection Act 2018 and will be available only to those directly involved, within the confines of the obligations and duties of the Act.
- 16.2 The HRM/AASAM on the relevant campus will securely retain material relating to Dignity and Respect at Work which may be anonymised to be used for statistical and management information purposes. This material may also be used to monitor the operation of this policy and any modifications which may be required.

## 17 References

### 17.1 Policies and Procedures

Procedure for the resolution of Grievances/Disputes (nationally agreed)

Institutes of Technology Disciplinary Procedure (nationally agreed)

Student Discipline in CIT Student Regulations (2015)

<http://www.mycit.ie/contentfiles/CIT%20regulations%20update%20May%202015.pdf> (Accessed: 30th January, 2020).

Institute of Technology Tralee, *Section B, Student Rights and Responsibilities* (u.d.)

<http://www.ittralee.ie/en/pdf/RightsandResponsibilites.pdf> (Accessed: 30<sup>th</sup> January 2020)

Student Grievance Procedure (2014)

[http://www.mycit.ie/contentFiles/PDF/Student\\_Grievance\\_Procedure.pdf](http://www.mycit.ie/contentFiles/PDF/Student_Grievance_Procedure.pdf) (Accessed: 30th January, 2020).

Dublin Technological University, 2019. *Dignity and Respect at Work*. HRP003 ed. s.l.:s.n.

Trinity College Dublin, 2016, *Dignity and Respect Policy*, ed. s.l.:s.n.

Institute of Technology, Tralee, 2019, *Dignity and Respect Policy and Procedures A10.2*, ed. s.l.:s.n.

### 17.2 Legislation and Codes of Practice

Disability Act, 2005

<http://www.irishstatutebook.ie/eli/2005/act/14/enacted/en/html?q=Disability+Act&years=2005> (Accessed: 30<sup>th</sup> January, 2020)

Employment Equality Act, 1998 Available at:

<http://www.irishstatutebook.ie/eli/1998/act/21/enacted/en/html> (Accessed: 30<sup>th</sup> January, 2020)

Equal Status Act, 2000

<http://www.irishstatutebook.ie/eli/2000/act/8/enacted/en/html?q=Equal+Status&years=2000-2012> (Accessed: 30th January, 2020).

Equality (Miscellaneous Provisions) Act 2015

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### **17.3 Codes of Practice**

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## **18 Appendix 1 Victimization of employees**

The term victimisation is used to describe unfair treatment of an employee by an employer because of some action the employee has taken. Some employment legislation protects employees from victimisation if they are availing of their rights under the legislation or looking to avail of such rights. This means that the employer cannot penalise the employee by dismissing them, treating them unfairly or changing their conditions of employment in an unfavourable way. Some legislation refers to this conduct as “penalising” an employee, other legislation refers to it as victimisation.

The following is a list of Employment legislation prohibiting victimisation:

### **Minimum wage**

The National Minimum Wage Act 2000 prohibits the employer from victimising employees for exercising their rights under the Act.

### **Employment equality**

It is victimisation if a person is dismissed or treated badly because they have made a complaint under the Employment Equality Acts or Equal Status Acts 2000-2018.

### **Health and safety**

Under the Safety, Health and Welfare at Work Act 2005 (as amended) an employee may not be penalised for exercising their rights under safety and health legislation. For example, the employer may not penalise or dismiss an employee for making a complaint to the Health and Safety Authority about health and safety at work.

### **Carer's leave**

Under the Carer's Leave Act 2001 employees are protected against being victimised for taking carer's leave or proposing to take it.

### **Part-time employees**

Part-time employees may not be penalised for claiming their rights under the Protection of Employees (Part-Time Work) Act 2001.

### **Fixed-term employees**

An employer is prohibited from victimising a fixed-term employee who looks to avail of their rights under the Protection of Employees (Fixed-Term Work) Act 2003. Victimization includes dismissal in order to avoid a fixed-term contract being considered an open-ended contract.

### **Agency workers**

An agency worker is protected against being victimised for reporting breaches of the Protection of Employees (Temporary Agency Work) Act 2012. This means that the hirer or the agency may not penalise an agency worker by dismissal, unfair treatment, or an unfavourable change in their conditions of employment.

## **Whistle blowers**

Under the Protected Disclosures Act 2014, employees who make disclosures about wrongdoing which comes to their attention in the workplace are protected against penalisation. This Act applies to all employees, contractors, agency workers, members of An Garda Síochána and the Defence Forces.

Under the Criminal Justice Act 2011 if an employee discloses information to the Gardaí or gives evidence about relevant offences, the employer is prohibited from penalising or dismissing the employee for this. Relevant offences are those relating to white collar crime in areas such as banking, company law, fraud, and corruption.

## **19 Appendix 2 Guidelines for Management of Records**

### **19.1 Requirements under the Freedom of Information Act 2014**

Any records received regarding a complaint or advice given regarding a complaint is deemed to be sensitive personal information which would not be subject to release under the Act.

Any statistics maintained on the number of complaints escalated to Human Resources or to the AASAM would be subject to release under the Act. Any such release would be redacted to ensure that no personal information of an identifiable person would be released.

### **19.2 Requirements under the General Data Protection Regulation (GDPR)**

Managers who handle personal data of staff and students are subject to requirements under the GDPR as data controllers. A controller must ensure that they are in a position to demonstrate that the processing of personal data for which they are responsible is in compliance with the Data Protection Act 2018. The Data Protection Policy of the MTU should be consulted.

Training and resources are provided to management and staff on their obligations under GDPR, but the following should be noted in managing and maintaining records of complaints under the Dignity and Respect Policy:

- Personal data means any information relating to an identified or identifiable natural person (data subject); an identifiable natural person is one who can be identified directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier, or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identify of that natural person;
- Records regarding a complaint of bullying, harassment or sexual harassment will contain personal data of both the Complainant and the Respondent and will often contain sensitive personal data such as sickness and injury records.
- In order to manage complaints under the Dignity and Respect Policy, managers will be required to process personal, and often sensitive, data of their staff and students.

- This information should be obtained and processed fairly.
- The information should only be used and disclosed in ways compatible with the purpose for which it is collected i.e. the management or investigation of a complaint under the Dignity and Respect Policy.
- Appropriate security measures should be taken against unauthorised access to, or alteration of, disclosure, or destruction of the data and against its accidental loss or destruction.
- Personal data should not be retained for longer than is necessary. Due to the fact that a person making a complaint continues to have the right to pursue their statutory rights both during and following the processing of a complaint, it is recommended that records are held for seven years and destroyed thereafter.
- Both the Complainant and the Respondent are entitled to exercise their rights to access their personal data on request to the Data Protection Officer of the relevant campus.
- Where the records relating to a data subject request include correspondence with a solicitor or barrister, the Data Protection Officer should confirm with the solicitor or barrister whether the correspondence has legal privilege and is therefore exempt from release.
- Complaint Recipients should make records of all stages of the handling of a complaint. These records should not include comprehensive details of what was discussed but just that discussions took place in order to provide evidence of all attempts at resolution.
- Investigators managing informal and formal complaints should ensure that all notes of meetings, written complaints and responses, witness reports, etc., are shared with both Complainant and Respondent to ensure fairness and transparency.

## Document Control

### A. Document Details

<b>Title:</b>	Dignity and Respect Policy
<b>Owner(s):</b>	Human Resources
<b>Author(s):</b>	HR Managers, Academic Administration and Student Affairs (ASAM) Managers, Unions Representatives, Student Union Representatives.
<b>This Version Number:</b>	1
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<b>Effective Date:</b>	February 2021
<b>Review Date:</b>	February 2024

**Important Note:** If the 'Status' of this document reads 'Draft', it has not been finalised and should not be relied upon. An existing approved policy is deemed relevant until such time as an updated policy has been approved by the relevant approval authority and becomes the new binding policy.

### B. Revision History

Version Number	Revision Date	Summary of Changes	Changes tracked?	Proposed Revision Date

### C. Relevant/Related Existing Internal/External Documents

Title	Status	Relevance to this document
Dignity & Respect Procedure	Approved	Procedure document

### D. Consultation History

***This document has been prepared in consultation with the following bodies:***

Consulted	Date	Details
TUI, SIPTU, Unite, Forsa, Student Union	Various dates in 2020	Consultation via working group

### E. Approvals

***This document requires following approvals (in order where applicable):***

Name	Date	Details of Approval Required
Governing Body	1 <sup>st</sup> January 2021	Governing Body

### F. Responsible for Communication and Implementation

**The Manager/Functional Area responsible for communication and implementation of the policy:**

Title	Functional Area	Date Implemented
HR/ASAM Managers	Corporate Affairs/Registrar	February 2021