

COLLECTIVE AGREEMENT ON ANTI-HARASSMENT POLICY AND INVESTIGATION PROCEDURE

Between

The International Labour Office

(hereinafter referred to as "the Office")

And the ILO Staff Union

(hereinafter referred to as "the Union")

WHEREAS THE Office and the Union signed on 24 February 2004 a Collective Agreement on Conflict Prevention and Resolution which replaced the Collective Agreement on the prevention and resolution of harassment related grievances,

WHEREAS as a result of the above agreements, the ILO no longer has a definition of "harassment" and no specific procedure for the investigation of harassment claims,

WHEREAS the Parties recognize the need to introduce a comprehensive Anti-Harassment Policy and an independent Investigation Procedure (the "policy"), and

RECALLING that Article 1.2 of the Staff Regulations requires high standards of conduct of all officials and that the Standards of Conduct for the International Civil Service recognise that international civil servants have a right to an environment free of harassment,

THEREFORE, the Parties have agreed to conclude a new Collective Agreement on Anti-Harassment Policy and Investigation Procedure as follows:

Article 1. Guiding Principles

1. Harassment in any shape or form is an affront to human dignity, and every person working in the ILO or for the ILO has the right to be treated with courtesy and respect, and to work in a professional atmosphere that promotes equal opportunities, prohibits discriminatory practices and facilitates optimal physical and mental health in relation to work.
2. The ILO is committed to ensuring a safe working environment which is free from all forms of harassment which is a serious form of misconduct.
3. The Office places the highest priority on the prevention and elimination of harassment in the workplace, and recognises that harassment is detrimental to an individual's physical and psychological well-being, lowers morale, disrupts the working climate and damages the reputation of the Organization.
5. Anyone subjected to any form of harassment has a right of redress. The purpose of this policy is to ensure that all complaints of harassment are carefully reviewed and thoroughly investigated in accordance with established procedures. Where any violation of the rights protected by this policy is found to have occurred, appropriate disciplinary sanctions will be

Handwritten signature and initials, possibly "CCT", in the bottom right corner.

applied and remedial measures taken to ensure that the person harassed is restored to a safe working environment and the person's well-being is being protected.

6. All persons subject to this policy shall have the right to invoke the procedures without fear of retaliation, intimidation, victimization, discrimination or unfavourable treatment. This guarantee of protection shall apply equally to all persons making an allegation and to those providing information concerning such an allegation or otherwise assisting in any process under this policy.

7. Acts of retaliation against an individual for having invoked the policy in good faith whether on behalf of themselves or another individual; or for having participated in or cooperated in any investigation under this policy; or for having been associated with a person who has invoked this policy or participated in these procedures are considered serious misconduct subject to immediate investigation and disciplinary sanction.

8. The Parties have agreed to an investigation process which is designed to deal with complaints expeditiously and independently in article 13.4 of the Staff Regulations.

Article 2. Scope

1. This policy applies to all ILO officials.

2. Any other individuals with a contractual relationship with the Office, such as interns and external collaborators or persons working on ILO premises under other contracts, who consider that they have been subjected to any form of harassment by a serving ILO official may avail themselves of the provisions of Article 13.4 of the Staff Regulations, with the exception of paragraph 18.

Article 3. Definitions

1. The agreed definitions of harassment and sexual harassment are provided in Chapter XIII of the Staff Regulations. The expression "harassment" includes, but is not limited to, the following which may occur singly, simultaneously or consecutively:

- (i) Measures to exclude or isolate a protected person from professional activities without reason or legitimate authority;
- (ii) Persistent negative comments on, or unreasonable or inappropriate monitoring of, professional performance without reason or legitimate authority;
- (iii) Manipulation of a protected person's personal or professional reputation by rumour, gossip and ridicule;
- (iv) Discriminating against a person based on real or perceived grounds such as race, national or ethnic origin or extraction, social origin, colour, religion, political opinion, age, gender, sexual orientation, gender identity, union affiliation, marital status, family status or responsibilities, disability or personal health status.
- (v) Persistently undermining a protected person's work, or setting objectives with unreasonable and/or impossible deadlines, or unachievable tasks;



(vi) Unreasonable and/or unfounded refusal of leave and training.

2. Sexual harassment can take many forms and may include:

- (i) Deliberate and unsolicited physical contact or unnecessarily close physical proximity;
- (ii) Repeated sexually-oriented comments or gestures about the body, appearance or life-style of a protected person;
- (iii) Offensive phone calls, letters, e-mail messages or other communications;
- (iv) Stalking;
- (v) Showing or displaying sexually explicit graphics, cartoons, pictures, photographs or Internet images;
- (vi) Questions or insinuations about a protected person's private life;
- (vii) Persistent invitations to social activities after the protected person has made it clear they are not welcome; and
- (viii) Sexually explicit jokes or propositions.

3. The prohibition of sexual harassment covers behaviour at the workplace or at social functions arising out of work, during duty travel, missions, training activities or other meetings undertaken in connection with work or during field work carried out with regard to projects in which the ILO is involved.

4. Harassment can consist of a single incident or repeated incidents. A single incident can be considered harassment if it has a severe negative impact on either the individual's health, administrative situation or the working climate. Comments and behaviour which may not in isolated circumstances constitute harassment can rise to the level of harassment if they are repeated. Also behaviours which are disproportionate to the matters which are said to have prompted the behaviour can be considered harassment. Harassment may occur within, or independently of hierarchical relationships or grade.

5. In determining whether or not harassment has taken place, intent is irrelevant. Even where the alleged harasser had no ill will or intent, the reasonable perception of the recipient shall be the primary factor in determining cases of harassment.

Article 4. Roles and responsibilities

1. The Office acknowledges its duty of care, and shall take all reasonable, practicable preventive and protective measures to provide a safe, healthy and secure working environment, free from harassment, and to protect the health and well-being of all those covered by this policy, without any discrimination whatsoever.

2. The Office will ensure that adequate resources are made available to promote respect and dignity in the workplace and to deal effectively with harassment.

3. Directors and officials with supervisory responsibilities are responsible for providing and maintaining a working environment that is free from harassment. They should make every effort to prevent harassment from occurring, as well as to respond appropriately to



allegations of harassment, taking effective and prompt protective measures, where needed, and to ensure that behaviours of this type cease immediately.

4. All persons subject to this policy are required to observe common courtesy and considerate behaviour towards each other regardless of grade or contractual status. All ILO officials must be aware of and take responsibility for their own actions and conduct themselves in accordance with the terms of this policy.

5. All staff members who have knowledge of potential cases of harassment should inform their hierarchy or the Director of the Human Resources Development Department. This may be done with the assistance of a Staff Union Representative, the ILO mediation or facilitation mechanisms, another official or a former official.

Article 5. Prevention

1. The Parties agree that the Joint Negotiating Committee (JNC) will oversee the development and implementation of prevention strategies - including information, awareness raising, training, monitoring and evaluation - with the objective of preventing harassment from occurring.

2. Immediate measures will consist of a notification of the policy to staff through appropriate internal governance documents and dissemination and awareness-raising of the policy, including an easy-to-find, user-friendly page on the ILO public website.

3. Prevention of harassment will be the subject of comprehensive, regular and on-going training provided by the Office for all ILO officials. Such training will target specific roles and responsibilities in preventing and addressing harassment.

4. Information shall be provided to all new staff as part of the induction process organized for such staff members. In addition, information on the policy will be provided to all other persons working on ILO premises or attending ILO meetings.

5. The implementation of this policy will be subject to regular monitoring by the JNC.

6. The parties underline the importance for prevention purposes of early recourse to informal dispute resolution mechanisms such as mediation, facilitation and third party assistance, and recognise the role that Staff Union representatives can play in providing information, advice and representation in this context.

Article 6. Formal Resolution Process Final provisions

1. In accordance with Article 8, paragraph 4 of the Recognition and Procedural Agreement, as amended on 6 November 2003, this Agreement shall be implemented by means of the agreed internal governance documents, including Article 13.4 of the Staff Regulations attached to the present agreement. In case of discrepancy between the terms of this Collective Agreement and those of the Staff Regulations, the latter shall prevail.

Handwritten signature and initials in the bottom right corner of the page.

2. This Agreement revises and complements the Collective Agreement on Conflict Prevention and Resolution. In case of discrepancy between the terms of the Collective Agreement on Conflict Prevention and Resolution and those of this Collective Agreement, the latter shall prevail.

3. This Agreement shall come into effect on 1 January 2015. A copy of this Agreement shall be posted on the ILO Intranet.

4. No terms of this Agreement nor of the attached Article 13.4 of the Staff Regulations shall be suspended, modified or otherwise amended except by means of a written agreement signed by the Parties. Either Party may terminate this agreement by giving six months' notice in writing to the other Party.

5. In the event of a difference of opinion in the interpretation of application of this agreement by the Parties, the matter shall be submitted to the Review Panel, as per Article 7 of the Recognition and Procedural Agreement signed between the Parties on 27 March 2000.

Signed in Geneva, this 28 November 2014, in two copies, in the English language, by the representatives of the Parties duly authorized to that effect.



For the Office: Greg Vines



For the Union: Catherine Comte-Tiberghien



Annex

Chapter XIII

Conflict resolution

ARTICLE 13.1

Informal conflict resolution

1. An official¹ who considers that s/he has been treated in a manner incompatible with her/his terms and conditions of employment, including the right to work in a place that is free of ~~sexual harassment~~, ~~should attempt to have the matter solved through dialogue. To this end, the official~~ may at any time, without prejudice to the right to file a

¹ For the purpose of Chapter XIII, the term "official" does not comprise officials in the executive directorate level.

 

abusive working environment or is used as the basis for a decision which affects that person's employment or professional situation".

~~1.2. The term "sexual harassment" is defined as "any unwanted conduct of a sexual nature in a—the workplace or in connection with work—that, which, in the reasonable perception of an ~~official~~ the recipient, can reasonably be seen as creating an offensive, intimidating, hostile or humiliating working environment for that person or is used as a basis for a decision which affects his/her—that person's employment or professional situation-or creates an intimidating, hostile or humiliating work environment".~~

~~2. The Human Resources Development Department shall review any sexual harassment grievance under article 13.2.2 within one month and notify the official of the measures it intends to apply, including, where appropriate, referral to independent investigation or any interim measures.~~

~~3. Should the official disagree with the proposed action or in the absence of any proposal, the grievance shall be submitted to independent investigation within one month of the notification of the proposed action or the expiration of the time allowed for the review.~~

~~4. There shall be at least three officials trained as investigators, appointed by the Director General on the recommendation of the Joint Negotiating Committee. The investigators shall designate among themselves a coordinator, responsible for assigning any case to the investigator or the investigators best suited to conduct the investigation, having regard to their availability and to the specific skills that may be required in each case.~~

~~5. The assignment of a case to an investigator shall be notified by the coordinator to the official, the Human Resources Development Department and other parties directly involved, who shall have one week to comment on the suitability of the investigator or investigators. The coordinator shall have one week from the receipt of any comment from the abovementioned parties to confirm or modify the selection of the investigator. This decision is not subject to appeal.~~

~~6. The investigator shall conduct any inquiry necessary to elucidate the case and shall draw up a report comprising a summary of the allegations, the investigative measures undertaken, the findings and suggestions where appropriate. This report shall be communicated to the Director General within three months of the assignment of the case, except where, in the investigator's opinion, exceptional circumstances require additional time. When communicating the report to the Director General, the investigator shall notify the parties that the investigation has been concluded.~~

~~7. If in the course of the investigation it becomes apparent that the conduct complained of does not constitute sexual harassment but that it may constitute treatment incompatible with other terms and conditions of employment of the official, the investigator shall refer the matter to the Human Resources Development Department for consideration under article 13.3.1 and inform the official having filed the grievance accordingly.~~

~~8. The Director General shall take a decision within two months of the communication of the investigator's report. The decision shall be transmitted to the official having filed the grievance and to any other party directly implicated together with a copy of the report, subject to any privileged information necessary to protect third parties. In the absence of an express decision within this deadline, the investigator shall provide the official having filed the grievance with a copy of the report subject to the restrictions noted above, and the official shall be entitled to imply acceptance of the findings as to the facts and rejection of the grievance.~~



3. To be receivable, a harassment grievance must:

- (a) be submitted by the claimant in written form addressed to the Director of the Human Resources Development Department within six months of the last occurrence of the behaviour which gave rise to the grievance;
- (b) be signed and dated by the claimant;
- (c) include the following:
 - (i) a detailed written statement of facts, including the person(s) designated as author(s) of the behaviour complained of (hereinafter "respondent(s)"), places, dates and a description of the acts of alleged harassment and the impact of the offending behaviour on the claimant;
 - (ii) the names of witnesses, if any, of the alleged acts of harassment;
 - (iii) any other relevant documentation, such as emails, message recordings, photographs, letters, medical examinations, or any other information the claimant deems relevant; and
 - (iv) the name and contact details of the claimant.
- (d) not be manifestly without merit.

4.(a) If a grievance is receivable, the Director of the Human Resources Development Department will notify the claimant and the respondent accordingly in writing within ten (10) working days of the receipt of the grievance and will proceed to nominate an investigator in accordance with paragraph 5 below. The Director of the Human Resources Development Department shall, at the request of the claimant, refer to the Recruitment, Assignment and Mobility Committee any urgent request for interim measures such as the transfer of the claimant to a similar post while the investigation is under way.

(b) In exceptional cases, if the Director of the Human Resources Development Department determines that the grievance is receivable and is satisfied that the facts are fully established, he/she will notify the claimant and respondent accordingly and proceed with any appropriate disciplinary measures in accordance with Chapter XII of the Staff Regulations, and any other administrative response deemed necessary.

(c) If the Director of the Human Resources Development Department determines that the harassment grievance is not receivable, s/he shall indicate in detail the grounds for this decision in a written reply to the claimant. No information shall be provided to the respondent. In such a case, any other issues which may be included in the grievance may be addressed to the Human Resources Development Department in accordance with the provisions of article 13.3.1 of the Staff Regulations.

5. In the case of a harassment grievance requiring investigation the Director of the Human Resources Development Department shall nominate an investigator and inform the claimant and the respondent of the identity of the investigator within ten (10) working days of the notification referred to in paragraph 4(a) above. The investigator shall be nominated from a list of qualified independent investigators established and maintained by the Joint Negotiating Committee.

6. The nominated investigator shall be obliged to declare any possible conflict of interest at the earliest opportunity and, in such case, to recuse him/herself from any further involvement in the investigation.

7. Both the claimant and the respondent shall have the right to raise any concerns they may have as to the suitability of the investigator within ten (10) working days of the notification regarding the identity of the investigator. If any objections are raised regarding the selection of the investigator within this time limit, the Director-General shall have five (5) days from the receipt of any comment from the abovementioned parties to confirm or

modify the selection of the investigator. This decision is not subject to appeal, but may be raised as an element in a later appeal.

8. The investigation shall be carried out promptly and with the highest standards of impartiality, objectivity, confidentiality, fairness and due process. The respondent shall be provided with a copy of the written statement of facts (paragraph 3(c)(i)) included in the grievance together with the other accompanying documentation submitted with the grievance (paragraph 3(c)(iii)). The respondent shall submit an initial response to the allegations in writing, including the names of any witnesses and all relevant documentation within twenty (20) working days of the reception of the above mentioned documents. A copy of this initial response shall be given to the claimant.

9. The investigator shall conduct any inquiry necessary to investigate the case including the review of the grievance and any additional statements of the claimant; review of the statements of the respondent; interviews with the parties and any witnesses or staff members deemed relevant to the investigation; as well as the review of any documentation supplied by the claimant, the respondent and the witnesses and gather any additional information needed to complete the investigation.

10. The claimant and respondent may be assisted during interviews by a Staff Union representative or any other member or former member of staff who is not a party to the proceedings.

11. The claimant and respondent shall both be informed of witness testimony in order to exercise their right of reply, to rectify erroneous information by furnishing evidence where necessary, or to have their disagreement put on record.

12. In the course of the investigation the investigator may also consult the personnel files of the claimant and respondent in order to verify or establish any relevant fact; request additional written statements and/or documentation; interview persons in a hierarchical relation to the claimant or respondent; and gather any additional information needed to complete the investigation.

13. The investigation shall be conducted as expeditiously as possible and shall normally be concluded within sixty (60) working days of the reception of the grievance by the investigator, except where, in the investigator's opinion, exceptional circumstances require additional time.

14. At the end of the investigation, the investigator shall prepare a report comprising:

- (i) a summary of the allegations;
- (ii) the investigative procedure undertaken;
- (iii) the persons interviewed;
- (iv) the documentation and additional information considered;
- (v) the established facts and an opinion as to whether or not the allegations of harassment were founded.

When communicating the investigation report to the Director-General, the investigator shall notify the claimant and the respondent that the investigation has been concluded.

15. The Director-General shall determine whether disciplinary action(s) in accordance with Chapter XII of the Staff Regulations, or any other administrative measures, are deemed necessary in response to the findings of the investigation report. Within twenty (20) working days of the receipt of the investigation report, the Director-General shall notify the claimant and the respondent of his/her reasoned decision as to possible disciplinary action(s) and possible administrative measures, including compensation. The Director-General shall also indicate, where necessary, the proposals of



the Office to improve the working environment. A copy of the investigation report shall be attached to the Director-General's decision.

16. If the Director-General has not made an express, reasoned decision within the deadline specified in paragraph 15 above the investigator shall provide the claimant and the respondent with a copy of the investigation report and they shall be entitled to infer acceptance of the report's contents by the Director-General.

17. The claimant shall be entitled to challenge a-the decision taken in accordance with paragraph 4(c) above, before the Joint Advisory Appeals Board within one month of its receipt.

18. The claimant and the respondent shall be entitled to file a complaint against the express or implied decision taken in accordance with paragraphs 15 or 16 above with the Administrative Tribunal of the International Labour Organization.

19. Disciplinary action(s) decided paragraphs 4(b) or 15 above are subject to Chapter XII of the Staff Regulations.

ARTICLE 13.5 remains unchanged

Handwritten signature and initials in the bottom right corner of the page.