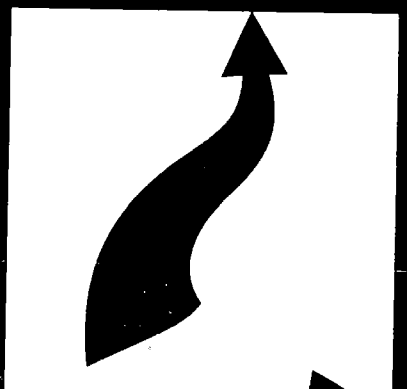
a model equal opportunities policy

men and women

working together



EQUALITY AT WORK

EQUALITY AT WORK POLICIES AND ACTION

Guidelines for employers
from the Employment Equality Agency

eea

Equality at Work

Published 1998 by EEA
1st edition

CONTENTS

EQUALITY – A GOOD POLICY FOR ALL

1

Considerable progress has been made for men and women in the workplace following the introduction of equal pay and employment equality legislation in the 1970s. This Equal Opportunities Model Policy incorporates the legal principles outlined in the equality legislation and established in individual cases. The guidelines also draw on experience throughout the private and public sectors in combating sex discrimination at work. The purpose of this document is to alert employers to their legal responsibilities and to recommend a pro-active approach in tackling all forms of discrimination that can arise in the workplace.

Legislation must be supported by pro-active policies in order to maximise its implementation, particularly in relation to dismantling the ongoing effects of past gender discrimination. These effects are still clearly in evidence, as demonstrated by the perpetuation of a gender-segregated labour market.

The achievement of equality at work has positive effects on the workplace for both employees and employers. Employees benefit from the new opportunities opening up to them. Employers benefit by fully utilising the talents and abilities of all their employees. As human resources are increasingly determining organisational success, the maintenance of a highly trained, motivated and stable workforce is of vital importance. Many employers have, for example, recognised that family-friendly employment policies can give them an edge in the labour market, both in recruitment and in retaining a skilled and experienced workforce.

It is worth considering some of the negative effects of failing to provide equal treatment or of tolerating forms of bullying or harassment:

- no incentive for employees to do more than the minimum required;
- loss of experience and knowledge to the organisation;
- high staff turnover;
- low morale;
- reduced labour market pool, and

- reduced productivity.
- it is unlawful - legal penalties may be imposed.

These guidelines are intended for organisations who are either considering the adoption of a formal equality policy for the first time or are reviewing an existing policy. It is also intended as a helpful guide for personnel managers and other executive staff charged with the implementation of those policies. The guidelines should also be useful to others, such as trade union officials, concerned with the negotiation or review of equality policies covering their members.

The guidelines include:

- the steps necessary to adopt a policy (Chapter 3);
- how you may implement the policy throughout the organisation (Chapter 4), and
- positive action measures to promote equality at work Chapter 8).

EEA is conscious that it is difficult to publish guidelines which apply equally to the vast range of employments throughout the country. For example, the degree of formality appropriate to a large organisation may not suit a small one. The information in the guidelines can, however, be adapted to the needs of all. Employers should, at the very least, ensure that their procedures and practices are not breaching legislation.

If a comprehensive positive action programme cannot be undertaken initially, EEA recommends making a start with one particular area. Fair recruitment and promotion systems are central to achieving equality in organisations. All employers, without exception, should have a written anti-harassment policy which ideally covers all forms of harassment. For some employees, the priority is availability of flexible hours and family friendly schemes, enabling them to maintain their link with the labour market while coping with caring responsibilities. Appendix (iii) lists sources of advice and assistance on the introduction and implementation of equality policies. Further details are available from the Employment Equality Agency, 36 Upper Mount Street, Dublin 2. Ph (01) 662 4577, Fax (01) 662 5139 or e-mail: info@equality.ie

MAKE SURE YOU COMPLY WITH LEGISLATION

2

The framework of an equality policy is provided for in employment equality legislation:

- ***The Anti-Discrimination (Pay) Act, 1974*** entitles a woman to the same rate of pay as a man who is employed by the same (or an associated) employer where they are both doing 'like work'. 'Like work' includes any of the following:

  - two jobs which are the same;

  - two jobs which are similar or have only minor differences;

  - two dissimilar jobs which are overall equal in value having regard to skill, physical and mental effort, responsibility and working conditions.

  "Pay" is broadly defined and includes all forms of remuneration, including pensions, sick pay schemes, bonuses and a wide range of fringe benefits.
- ***The Employment Equality Act, 1977*** prohibits discrimination on grounds of sex or marital status in recruitment for employment, opportunities for promotion, vocational training, work experience and counselling, in conditions of employment and in dismissal.
- ***The Pensions Act, 1990*** makes specific provision for equality in occupational pension schemes.

NEW LEGISLATION

The employment equality legislation is currently under review. Amending legislation is under consideration which will extend the grounds of unlawful discrimination to cover:

- gender
- marital status
- age (some aspects of which are already prohibited by the 1977 Act)
- disability
- sexual orientation
- family status
- race or ethnic origin, including membership of the Travelling Community
- religion

EEA, therefore, recommends that equality policies, whether currently in operation or under consideration, should be as comprehensive as possible and cover all of the above mentioned issues.

Types of Discrimination

Discrimination can take several forms:

- Direct discrimination
- Indirect discrimination
- Victimisation or penalisation

Direct discrimination takes place where an employer treats an employee, or potential employee, less favourably than another because of a particular bias such as gender. Direct discrimination, when prohibited by legislation, is always unlawful. Currently, direct discrimination on grounds of sex and marital status is prohibited. The refusal to consider male applicants for the position of receptionist would constitute direct sex discrimination in breach of the Employment Equality Act, 1977.

Not currently prohibited by law but nevertheless discrimination, would be a refusal to hire someone who was disabled or who was a member of the Travelling Community.

Direct discrimination generally involves a comparison between different treatment experienced by two individuals in comparable situations. It is necessary to show that less favourable treatment occurred such as offering a job to a less qualified and less experienced man ahead of a more qualified and experienced woman. Pregnancy discrimination, if proven, constitutes direct sex discrimination and no comparison with a male is required.

Indirect discrimination occurs where a requirement, practice or policy which is not essential for the job has a disproportionate impact on a particular group. Indirect discrimination is unlawful unless it can be objectively justified. Indirect discrimination involves a comparison between groups, for example part-time and full-time workers.

Examples of indirect discrimination are excluding job applicants who have childcare responsibilities, applying unnecessary height requirements or seeking qualifications which are not relevant and are more likely to have been acquired by a particular group.

It is important to note that an employer can indirectly discriminate without having any intention to do so. It is important, therefore, to scrutinise personnel practices closely from the point of view of their potential effect on various groups of employees or potential employees.

Victimisation takes place where an employee is penalised for seeking to enforce equality rights or for being involved, as a witness perhaps, in an equality claim.

FIRST CONSIDERATIONS

3

An Equality Policy is for the Long Term

The long term goal of an equality policy is a fairer and more efficient workplace. An equality policy will not bring about sudden change or reverse overnight all adverse attitudes and practices. Commitment and perseverance in implementing these policies is needed to achieve the objective of realising the full potential of all workers. Implementing an equality policy requires the same approach as does the implementation of a quality control or any other important organisational policy.

- *Approach an equality policy in the same way as any other important organisational programme*

Top Management Support is Vital

If any organisational policy is to be effective, it needs the active support of the chief executive in its inception and its implementation. Other senior and middle management will have to undertake responsibility for the policy's successful operation. Equality policies may need some extra resources to assist with their implementation but the single most important factor in a successful equality policy is top management commitment to the policy.

- *Top management must support an equality policy at inception and throughout its implementation*

Make a Senior Manager Responsible

One senior manager should be given responsibility for drawing up and implementing the equality programme. This may be a manager with sole responsibility for equal opportunities and positive action. If so, the appointment should be made at a level sufficiently senior to ensure influence with other senior managers. An alternative is to give an existing senior manager responsibility for implementing the organisation's policy. This may be the more realistic option in small to medium-sized organisations. The same condition of sufficient authority, however, applies.

- *Appoint a senior equal opportunities manager or make another senior manager responsible for the equality policy*

Draw Up a Policy Statement

The first step is to draw up a short policy statement, indicating the organisation's commitment to equal opportunities in matters of pay, recruitment, promotion staff development, training and working conditions including harassment and flexible working arrangements. The statement should indicate the name of the manager responsible

- *Draw up a short policy statement outlining the organisation's commitment to equal opportunities*

for the policy. It should outline procedures for dealing with complaints of discrimination. The policy statement should also contain a commitment to drawing up an action programme in consultation with the union(s) representing staff and, where appropriate to the size of the organisation, to establish an equal opportunities committee. A commitment to monitor and review the operation of the policy should also be given.

Make the Equality Policy Known to Staff

- *Distribute the policy statement to all staff and publicise it through in-house magazines*

When the equality policy has been drawn up and you are ready to proceed, a copy should be given to all employees. Put a copy on all notice boards and include articles on the policy in staff magazines. Consider devoting a special edition of the staff magazine to equal opportunities and positive action.

Consult Unions and Staff

- *Consult unions on developing the policy and involve staff in its implementation*

An equality policy will have an enhanced chance of success if both the staff and their union representatives are consulted and involved in the development, implementation and ongoing monitoring of the programme. In medium-to-large-sized organisations, an equal opportunities committee, composed of management responsible for implementing the equality policy and a representative cross-section of staff, will be of considerable assistance in targeting areas for action and promoting employee interest in the equality programme.

THE IMPLEMENTATION PROCESS

4

An Equal Opportunities Audit

An equality programme must be tailored to the needs of the particular organisation. A useful starting point is carry out an audit or review of the organisation from an equal opportunities perspective. The information collected in this exercise will help identify areas for action and serve as a benchmark from which to measure progress over time.

The data sought should include information on the recruitment, promotion, training and transfer rates of employees of both genders and by marital status

- *Gather information on the recruitment promotion, training and transfer rates of employees by group.*

If possible include interviews with employees to gain an insight into attitudes within the organisation. This consultation stage presents an opportunity to explore matters which are not readily amenable to a statistical approach

The services of an external facilitator may be required to review or codify the organisation's procedures and practices. It is important, however, that the initiative is strongly company-led with clear parameters set for the outside consultant. The active support of management and employee representatives from the equality committee in explaining the exercise and encouraging employee participation is also recommended.

Analyse the Data

This material should be analysed on a whole organisation basis and by department. The breakdown by department is important as there can be pockets of discrimination within the organisation which may be obscured in the general picture. The equal opportunities committee could also be helpful in pinpointing any such localised instances of discrimination and should, in any case, be involved in the exercise.

- *Analyse the information for the organisation as a whole and by department*

Use Expert Advice

Expert outside advice could be helpful at this or any other stage of development of the policy. EEA can advise on particular issues and you should also consult your employer organisation.
The larger unions also have expert advisers on equal opportunities.

- *Expert advice is available from EEA, your employer organisation or the unions*

Set Targets

- *Set achievable targets against which progress can be measured.*

While it is desirable to have a comprehensive equality programme, it may be necessary to implement it in phases. The programme should set targets to be achieved in the first phase, both in terms of numbers and dates. Without such targets, the programme could lose momentum and credibility. Set realistic targets which can be built-on over time.

Start with some areas in which progress can be made and gradually extend the range of initiatives. In this way, the programme will gain credibility and attract employee support.

Monitoring and Review

- *Monitor progress at set intervals and review progress, responding to any shortfalls by re-assessing the action required to redress them*

A monitoring and review clause is a very important part of an equality programme. It is essential to establish the extent to which the targets have been met and the reason for any shortfall. It may be necessary to concentrate on an area of the programme which is causing particular difficulty or to readjust the targets set. If the targets have been broadly achieved, the next phase of the programme can be discussed.

The review stage presents an opportunity to incorporate any caselaw developments or legislative changes that have occurred. If any complaints of discrimination have been received, this is an ideal opportunity to assess whether or not the programme could have prevented their occurrence or how the programme can be strengthened to prevent a recurrence.

Information at Regular Intervals

- *Inform employees at regular intervals on how the programme is progressing*

Keep employees informed at regular intervals about the progress being achieved or about the reasons for any lack of progress by special bulletins or in-house magazines.

Annual Report

- *Consider including information on the policy in the organisation's annual report*

Organisations which publish an annual report should consider including information on the positive action programme with yearly updates on progress achieved.

DRAWING UP YOUR EQUALITY PROGRAMME

5

WHAT IS THE DIFFERENCE BETWEEN EQUALITY POLICIES AND PROGRAMMES?

The equality policy outlines the organisation's commitment to equality covering a range of personnel matters. It is the equality programme which sets out the measures necessary to give practical effect to the policy. These measures will depend, to some extent, on the information obtained in your base-line study.
Broad headings to consider include:

- *An equality programme gives practical effect to the equality policy.*

- **Training for management and supervisors**
  The active support of line management and supervisors is crucial to the successful implementation of the policy.

  Failure to provide appropriate training initially and at regular intervals could seriously jeopardise the achievement of objectives. The training should include awareness of equality principles, legislation and caselaw, line management's role in implementing the policy and attitudinal and behavioural issues.

- *The success of an equality policy can depend on the training of management and supervisors*

- **Training for the Equality Committee**
  The Equality Committee's role is to help develop and implement the equality programme. Staff representatives will need training in equality legislation, equal opportunities principles and practices and on implementation of an equality policy.

- *The Equality Committee needs training to help them to carry out their role.*

- **Review of organisation's communications**
  It is important that the organisation's literature (staff handbooks, in-house magazines, etc.) reflects an equal opportunities ethos.

  Ensure that non-discriminatory language is used in all written and verbal communications within and from your organisation.

- *Make sure organisation communications are non-discriminatory*

- **Develop complaint procedures**
  Develop procedures to deal with complaints and, especially, a specific procedure for sexual and other forms of harassment at work. Effective complaint procedures will strengthen the equality policy. Line managers and employees should be clear about the steps involved in raising and handling complaints.

- *Establish procedures for dealing with discrimination complaints*

- **Review personnel practices and procedures against base-line study**

Check personnel practices against the information in the base-line study

The baseline study should provide valuable information to help analyse the strengths and weaknesses of the organisation's personnel policies and practices from an equality perspective. Are, for instance, a majority of women in lower grades and a majority of men in higher grades in various departments? Are there areas where the position is reversed? Are there departments within which there is equality? Gender balance can be roughly measured as 60-40 either way, as the maintenance of an exact balance between men and women is not always possible.

Is there reasonable gender balance?

Are there tacit or stated age limitations in any areas of employment?

Are age limitations applied in any areas of employment - whether tacit or stated? If so, they may be unlawful under equality legislation. Many employers have realised the benefits of selecting staff from as broad a pool as possible and of having a mixed aged employee profile

Could high labour turnover have equality implications?

Is there a high turnover of employees of one gender in your organisation or any part of it? Are married women leaving in unacceptably high numbers? Investigate any such occurrences and try to establish if there is any issue of discrimination which is the underlying cause.

Commit the organisation to complying with legislation on maternity and pregnancy

Do external factors such as pregnancy or family responsibilities mitigate against employees within the organisation? Such discrimination may not be deliberate but a climate can be created where an employee feels that her/his family circumstances has adversely affected their progression within the organisation. A clearly stated policy of protecting the employee's rights during pregnancy and recognising parental roles can ensure that an equality culture exists for all employees.

A number of specific areas for action will be identified in the review stage, for example:

- the need to revise particular personnel and work practices
- the need to introduce new policies
- the need for positive action initiatives to reduce barriers and traditional gender divisions.

SOME KEY ISSUES

6

Some measures are so important that they should not be omitted from any equality programme.

Recruitment and Promotion

Equality of access to employment is one of the most important aspects of equality of opportunity. Equality of access to promotion ensures that a person, once in employment, can progress and pursue a career. The importance of non-discriminatory procedures in recruitment and promotion is, therefore, obvious. In large and medium-sized employments, formalising the procedures is probably the best option. In small employments, the employer should ensure that she/he is aware of the equality implications of each stage of recruitment and promotion procedures.

- *Equality of access to employment is one of the most important aspect of equality of opportunity*
- *Equality of access to promotion gives access to a career*

Training for recruitment staff

All staff involved in the recruitment and promotion process should receive special equality training in non-discriminatory recruitment methods. Such training should help achieve a consistent approach to recruitment and promotion. Those trained should include managers and supervisors who have an input into the decision-making process and administrative staff who deal with job applicants.

- *All staff involved in recruitment and promotion should have equality training*

Job descriptions

Draw up a description of the job and its requirements. A focus on skills and competencies helps ensure that all candidates, including women and men, are fairly considered for the position. Revise job descriptions at regular intervals to keep pace with changing work practices.

- *An objective job description helps ensure fair treatment for all applicants*

Job qualifications

On the basis of the job description, assess the qualifications required for the job. Try to avoid assessing these qualifications with reference to the previous employee as this can perpetuate past discrimination. All qualifications listed should be essential requirements for the job. Guard against the possibility of excluding particular groups or categories of employees. Consider carefully whether requirements to work full-time/nights/weekends/overtime or to be mobile are essential

- *Assess required qualifications on the basis of the job description*

for the job. Give due weight to experience in addition to formal qualifications.

Advertising the job

- *Job advertisements should contain a strong and unambiguous equality message*

Review the organisation's method of advertisement being particularly careful about indirect discrimination. A written advertisement is preferable to 'word of mouth'.

Some methods of advertisement are likely to perpetuate any discriminatory patterns in employment. For instance, single-gender employees are likely to notify only persons of the same gender of job vacancies. Similarly, a locally focused advertising campaign can replicate gender divisions as local knowledge may assume that only persons of the gender currently holding the job will be eligible for employment in the vacant post.

- *Job titles must not denote or imply a particular gender*

- *State experience or level of qualifications*

Do not include age limitations. They have been found to be unlawful in certain circumstances under the 1977 Act. If the job requires certain qualifications and experience which imply a minimum age, state the qualifications and experience required, not the age.

When advertising through agencies or other third parties, give direct instructions on non-discriminatory recruitment. Job advertisements should contain a strong and unambiguous equality message, such as "ABC Ltd. invites applications from under represented groups and will consider all applications on their merits."

Make sure that job titles used in advertisements do not denote a particular gender or, if a title such as 'waiter' normally denotes one gender, make it clear in your advertisement that applications will be welcome from all.

Application forms

- *Application forms should not contain questions on personal circumstances*

Application forms should only seek information which is relevant to the job. Questions about marital status, number of children, etc. can all be discriminatory and should be omitted. Confine questions to such matters as educational attainments, vocational qualifications and range of experience to date. Any personal information needed for employment or statistical purposes, e.g., pensions, should be obtained after the decision to appoint/promote has been made.

Where personal details are sought for purposes of monitoring the effectiveness of a recruitment policy, it should be made clear that the information will not be disclosed to those involved in interviewing candidates for the job.

Guard against the possibility that a telephonist, receptionist or security person inadvertently giving a discriminatory impression to those seeking application forms.

Deciding on the appointment

Decisions on who to short-list for interview, interviewing and the final choice of candidate for a job should, where possible, involve a number

of people. This allows for the involvement of both genders, and perhaps an outside expert, so as to avoid the possibility of bias. In small organisations, where one person will make the decision, special care should be taken to eliminate bias from decisions.

- *Where possible, use several people of mixed gender when shortlisting or interviewing*

It is very easy to discriminate in interviews. Questions asked at interviews should seek information only on the candidate's educational and vocational qualifications for the job, previous experience and those personal qualities, such as initiative, communications skills, etc. No questions should be put to a candidate about personal circumstances. If the nature of the job requires information on whether the candidate's personal circumstances will affect performance, such as extensive unsocial hours, it should be sufficient to explain clearly the implications of the job and to ask him/her if they can meet the requirements.

- *Ask questions only about a candidate's qualifications and experience*
- *If the personal circumstances could affect job performance, give full details of the job and ask all candidates if they can meet its essential requirements*

The same question should be asked of **all candidates** and evaluated in the same way for men women, old and young etc. No reference should be made to the gender of the previous holder of the job.

Care should be taken in using psychological or other forms of testing to guard against inherent forms of bias. Selection should not be made on the basis of test results alone.

- *Guard against any forms of bias in the selection process*

Gender specific conditions, such as pregnancy, should never be a consideration on deciding the eligibility of a candidate for a post.

PROMOTION

The principles which ensure a non-discriminatory approach to recruitment apply equally to promotion. An organisation drawing up an equality programme should try to ensure that all employees have an equal possibility of career progression.

- *Ensure that all employees have an equal possibility of career progression*

Organisations may have a less formal approach to promotion than to outside recruitment. Managers and supervisors, who may have particular views on gender roles, may have undue influence in promotion decisions and their subjective assessments may result in perpetuating gender or age imbalances.

- *Managers and supervisors can have an inbuilt bias against change*

Older employees should have equal access to promotion and unofficial age limits should not form part of the promotion criteria.

- *Do not operate unofficial age limits for promotion*

Give feedback to unsuccessful candidates, so that they may improve their performance.

When monitoring and reviewing progress under the equality programme, it is especially important to assess its affects in relation to promotion. Keep adequate records and plan ahead for greater balance between various groups.

- *Monitor carefully the results of your promotion policy*

Positive discrimination in employment is unlawful. Employment equality legislation requires that employers treat men and women

equally. Employers are, however, permitted to offer special treatment to facilitate pregnancy in the workplace and to offer single-sex training to under represented groups - see page 26.

Training and Work Experience

- *Equal training and work experience for all can help to achieve equality*

All employees should receive training and a range of job experience which will help them to compete for promotional opportunities as they arise. This will increase mobility throughout the organisation and will help to remove identification of particular jobs with one gender or age group.

- *Educational support schemes should be open to all*

Assistance to employees to obtain formal educational or training qualifications outside the workplace, such as time off or subsidisation of fees for third-level courses, should be available to all employees on an equal basis.

Geographical Mobility

- *Employees who refuse a promotion or assignment involving mobility may at a later stage be in a position to take up the appointment*

If certain jobs in the organisation involve a need for geographical mobility or for prolonged periods of travel, do not take an employee's refusal to make a move at a given time as a permanent decision. The employee's personal circumstances could change and she/he should not be excluded from later opportunities of a similar kind.

Pay and Benefits

Under the 1974 equal pay legislation, men and women are entitled to an equal rate of pay, if they are doing like work for the same employer or by an associated employer, in the same place - place being broadly interpreted as a city, town or "catchment area".

"Like work" means

- work which is the same or which is completely interchangeable, or
- work of a similar nature, with differences being infrequent and not important in relation to the job as a whole, or
- work of equal value in terms of the skills, responsibility, mental and physical effort and working conditions.

- *Assess all jobs to ensure that they carry equal pay entitlements*

Assess all jobs in the organisation at regular intervals to ensure compliance with the equal pay legislation. The European Commission's *Code of Practice on Equal Pay for Work of Equal Value* should be consulted in this regard. Ideally, the assessment should be made using formal job evaluation criteria, having established that the system used has no inbuilt bias against female skills.

- *Equal pay means more than basic pay - it includes fringe benefits as well*

"Pay" is broadly defined and includes such items as bonus payments, pensions, overtime and shift premia, VHI contributions, sick pay and other fringe benefits which form part of the payment for the job, whether contractual or *ex gratia* payments or benefits.

The 1990 Pensions Act also provides for equality of treatment in pensions schemes between men and women and single and married people.

Conditions of Employment

The equality programme presents an opportunity to ensure that conditions of employment are applied equally to employees in the same circumstances. An organisation with single-status conditions is least likely to discriminate on conditions of employment.

- *Ensure equality in all conditions of employment*

Current equality legislation lays particular emphasis on equality in relation to conditions such as those governing transfers, lay-offs and redundancy.

Transfers

Transfers can be particularly difficult in their equality implications. Where there is a requirement for employees to be geographically mobile, for example, there is a strong temptation to require only single employees with no dependents to move and to allow employees with dependents to choose whether or not to accept a transfer. It is important that a transfer policy is applied equally to all categories, men and women, single, widowed, married, in stable relationships and with or without dependents. A consultation process should mitigate problems in this area.

- *Compulsory transfers can present difficulties but must be handled on an equal basis*

Lay-off and redundancy procedures

Traditional methods for choosing those to be laid off can be fraught with equality difficulties. For instance selecting only part-time or temporary employees for redundancy while retaining full-time, permanent employees would constitute indirect discrimination where the former group is largely composed of married women and the latter is composed mainly of men and/or single women. An Equal Opportunities Policy should confirm that atypical employees will be treated equally with full-time employees.

- *Adopt equal methods of selection for lay-off and redundancy for all*

Collective agreements

Collective agreements should be examined, in conjunction with the trade union(s) for equality implications. Typically, these could contain clauses limiting opportunities for part-time workers or granting opportunities to particular groups largely composed of a single gender. They could also contain discriminatory provisions on selection for lay-off and redundancy.

- *Check your collective agreements for discrimination*

Harassment policy

An effective policy aimed at preventing sexual and other forms of harassment at work should be part of the equality programme. This issue is dealt with in detail in Section 8 of these guidelines.

- *Draw up a comprehensive harassment policy*

Ensuring the effectiveness of your equality policy

Employees who fail to implement the organisation's equality policy should be aware that the matter comes within the scope of the disciplinary code.

- *An effective equality policy is supported by disciplinary measures for breaches and grievance procedures for pursuing complaints*

Similarly, the grievance procedures should contain procedures for dealing with complaints relating to the operation (or non-operation) of the equality policy. All staff should be fully aware of the existence of these procedures, so that they can feel confident that they will have equal access to a satisfactory outcome should they chose to pursue a complaint.

- *Ensure that management know their role under procedures*

Adequate briefing for supervisory and management staff on their role in the operation of the equality aspects of the grievance and disciplinary procedures is essential.

PREGNANCY, ADOPTION AND WORK

7

The Maternity Protection Act, 1994 and the Adoptive Leave Act, 1995 set minimum standards protecting employees' rights during and after pregnancy and in cases of adoptive leave. These Acts also guarantee employees a right of return to work after maternity or adoptive leave absences. There are also health and safety regulations which require that pregnant and breastfeeding women receive protection from workplace hazards.

The Maternity Protection Act, 1994 provides for several types of 'protective leave'. For details, please refer to EEA's leaflet on this Act.

- Maternity leave is of 14 weeks' duration. It is important to note that the 1994 Act only lays down a minimum entitlement to maternity leave. Employers can grant longer periods of maternity leave, if they so desire. Maternity leave is regarded as fully reckonable service. In other words, a woman on maternity leave is regarded as being 'in work' for the duration of the leave and, accordingly, the service is reckonable for the purposes of seniority, increment and accrual of annual and other leave entitlements, for example.
- Additional maternity leave of up to 4 weeks can be taken after maternity leave, at the employee's request. An employer cannot refuse this leave as it is a statutory entitlement. As with maternity leave, employers can grant more than four weeks' additional maternity leave to an employee. Unlike maternity leave, additional maternity leave (often called 'unpaid leave') is not considered reckonable service. However, it does not affect an employee's right of return to work nor is it considered a break in service. Rather, the last day of maternity leave and a woman's first day back at work after additional maternity leave are regarded as continuous service.
- All women are entitled to time off without loss of pay for ante-natal or post-natal medical visits. While the 1994 Act does not require that women be given time off for natal classes, employers can choose to make arrangements to enable employees to attend classes.
- Under the Health, Safety and Welfare at Work (Pregnant Employees etc.) Regulations, 1994 employers must assess the workplace for potential hazards to pregnant workers, workers who have recently

given birth and workers who are breastfeeding. They must also amend their safety statements accordingly. Where a risk is established, the employer should try and remove it (if practicable) or alternatively transfer the employees concerned to suitable alternative work. Should suitable alternative work be unavailable, employees should be granted health and safety leave as provided for under the 1994 Act. This leave is fully reckonable and continues until suitable alternative work becomes available, the risk is no longer an issue or maternity leave commences. In the case of an employee who is granted health and safety leave because she is breastfeeding, the Act specifies that such leave can be taken to up the 26th week after the birth of the child.

It is important to note that a woman has a right of return to the same job, with the same conditions of employment she had before a period of leave under the Act. In certain circumstances, this may not be possible so, in these situations the employee should be given other work that is appropriate to her without loss of earnings or deterioration of conditions.

Pregnancy and Discrimination

Less favourable treatment on grounds of pregnancy is a form of sex discrimination and is contrary to the Employment Equality Act, 1977. For example, including periods of maternity related illness unfavourably in an employee's service record has been held to constitute discriminatory treatment. However, even where there may not be any overt antagonism to a pregnant employee, many women feel that their pregnancy is viewed as an "inconvenience" and, potentially, damaging to their service record. This can have a serious impact on morale and confidence. One way of avoiding such problems is for employers to actively inform their employees what their rights are during pregnancy and to ensure that their employees are aware of the notice that is required of them by the 1994 Act. (See EEA Maternity Protection Act, 1994 leaflet for details of notification required). Also, employers may make special provisions to accommodate pregnant workers. Allowing sedentary workers to move around frequently, or providing workers who are standing for long periods with seats would be examples of such provisions.

The provision of a period of paternity leave during their partners' confinement can help to alleviate stress and boost morale among male workers. Paternity leave can take many forms, commonly consisting of a few paid days off at the time of confinement.

The Adoptive Leave Act, 1995

Employees who are adopting children also need to be facilitated. The Adoptive Leave Act, 1995 provides that women, or sole male adopters are entitled to;

- A minimum of 10 weeks' adoptive leave which is fully reckonable service. As with maternity leave, employers can grant more than 10 weeks if they wish.

- Up to 4 weeks' additional adoptive leave. This operates in a very similar manner to additional maternity leave. In the event of a foreign adoption, the employee can take all or part of their additional adoptive leave before their adoptive leave if they wish.

Employers are not obliged to pay employees who are on maternity leave or adoptive leave or after the first 21 days of health and safety leave. This is so that the employer can meet the costs of a temporary replacement. However, many women lose out especially in terms of pension and/ or social welfare contributions and household income may fall below subsistence level if the employee is relying on social welfare maternity benefit. Health and safety social welfare benefit is pitched at a particularly low level. If an employer chooses to pay their employees while they are on such leave, they may do so.

As with other flexible working arrangements, the facilitation of employees while they are pregnant, are adopting or have recently become mothers or fathers is advantageous to employers as it reduces employee stress and increases employee morale, thus improving productivity. It also helps to reduce staff turnover and loss of expertise and boosts employee confidence which also has positive effects.

POSITIVE ACTION

8

What is Positive Action?

The guidelines in Chapter 6 incorporate the legal obligations placed on employers arising from Irish and EU employment equality legislation. In addition to complying with legal standards, EEA advocates the adoption of positive action programmes by employers to assist implementation of equality objectives.

Positive action involves taking steps specifically aimed at redressing imbalances in the workforce and in encouraging particular categories to enter the workforce, remain in it and progress through it.

- *Positive action means specific steps to redress imbalances and to give less advantaged groups equal opportunities*

Positive action should not be confused with positive discrimination. Positive discrimination means choosing or otherwise favouring a person because they belong to a particular category and it is, therefore, unlawful under current Irish and EU equality law.

Positive action involves encouraging particular groups, which have been the subject of discrimination in the past, to compete on a level playing field. The Employment Equality Act, 1977 recognises the need for positive action by permitting single-gender training for groups of employees (men or women) who have not been employed in significant numbers in a particular kind of work during the past twelve months.

- *Single-sex training permitted under 1977 Act in certain circumstances*

In all other cases of positive action, the scheme must be made available to persons of both gender and of each marital status.

- *Equal access to positive action schemes*

It is useful to look at positive action under the following headings:

- recruitment
- training and work experience
- promotion
- adaptation of the workplace
- combining work and family responsibilities

Recruitment

Following the procedures for recruitment in Chapter 6 will go a long way towards achieving equality of opportunity in the organisation. It

- *Take extra steps to publicise your equality policy in recruitment in your catchment area*

may, however, be necessary to challenge assumptions that certain jobs are only open to certain groups. In this regard, employers who visit secondary, vocational and third-level establishments should emphasise their equality policy. Similarly, communications as part of schools/university-business links programme and with the local FÁS office or other recruitment agents should highlight the organisation's commitment to equality.

Training and Work Experience

Training and varied work experience are essential to equip employees to compete for promotion and progress in their employment. If there is less than a 60/40 gender balance in any job category or grade, it is lawful to offer single-sex training to the under-represented sex to accelerate their career advancement. Selection for any job must, as always, be based on merit.

- *Adequate training and work experience are essential to levelling the playing field for disadvantaged groups*

Positive action could mean assessing reasons why women, for instance, do not get promotion and then drawing up a formal programme aimed at giving them the necessary training and supervised work experience which will enable them to compete on an equal basis with men for vacancies which arise.

Where flexible working arrangements are provided, ensure that employees are trained in all elements of each job and not just in parts of it.

- *There are advantages for both staff and employer in giving wider training*

Such a policy will have benefits for both the employee and the employer:

1. The employee will have opportunities for promotion and career progression
2. The employee will have opportunities to earn higher pay for periods when, once trained, she/he is carrying out higher-grade work
3. The employer can promote from a broader pool of trained employees .
4. A bigger pool of trained employees will be available to replace employees on sick leave, annual leave, or overtime.

- *Older employees should have access to training schemes*

Older workers will also benefit from such training schemes and should not be excluded from them.

- *Consider supporting employees who want to improve their qualifications in their own time*

As an element of positive action in training, employees might be encouraged to undertake educational and training courses in their own time and be supported by

- having all or part of the costs paid
- getting time off for study
- getting time off for examinations

Any such scheme should be open to all employees.

Promotion

Positive action on promotion means ensuring that employees have received sufficient training and work experience to enable them to compete for vacancies as they arise. Applications should be particularly invited from under-represented groups. Positive action programmes seek to address observed difficulties such as providing a confidence building course to help improve interview performance.

Take any steps necessary to assure, for example, part-time employees, and older employees that they are also eligible for promotion.

- *Ensure that older employees realise that they have promotional outlets*

If there are no obvious promotional outlets for a particular category of employee, try to work out training programme which will enable them to get out of the employment cul-de-sac in which they find themselves.

Adaptation of the Workplace

In the past, women were excluded from certain jobs because of weight-lifting regulations. Lack of experience in these jobs can impede women's promotional opportunities. Taking positive action in this area could mean or reorganising the way in which the work is done or installing mechanical lifting gear. Such adaptations are covered in the Safety, Health and Welfare at Work Regulations, 1993 and the Safety, Health and Welfare at Work (Pregnant Employees), 1994.

- *Adapting the workplace to make it accessible to women employees will open up opportunities for employment and promotion*

Combining Work and Family Responsibilities

Having the flexibility to combine work and caring roles can increase an employee's contribution to the employment.

- *Employers can do much to help employees to combine their work with family responsibilities*

Progressive employers offer a range of flexible arrangements, including special leave, part-time work, flexi-time, job-sharing, career breaks. An EU Directive will shortly make parental leave available to both men and women with effect from July 1998.

- *Flexible working arrangements should be available to all employees*

The range of flexible options should apply to all employees throughout the organisation, including senior managers. Particular efforts should be made to ensure that men have access to flexibility.

- *Recognise the needs of managers and also of men for flexible working arrangements*

Employees with family responsibilities which make it impossible for them to work full-time should be facilitated with a flexible working pattern and with the opportunity to resume full-time work, as soon as it becomes feasible for them to do so. Career breaks should also be available to all employees. Consider the design of all jobs very carefully to see how they could be performed on a part-time basis, where necessary.

- *Increase flexible working options*

Individual employers may support childcare provision as a means of increasing equality between men and women at work, as follows

- *Lack of adequate childcare facilities poses a serious barrier to equality at work*

- *Consider the introduction of childcare facilities or support*

- provision of an on-site childcare facility (usually employer subvention of capital costs and parent fees covering running costs);
- subsidisation of parent costs in utilising commercial childcare facilities;
- support for community-based childcare facility;
- collaboration between groups of employers to provide childcare facilities to meet the needs of workers in a number of employments.

Atypical Employees

Part-time or other atypical employees can often be the subject of discrimination. Discrimination against these categories has been found to be unlawful where the group is composed largely of women and/or parents with family responsibilities.

- *Atypical employees should have equal pay and conditions*

Current equality law requires that part-time employees should receive the same hourly rate of pay as full-time employees and that they should benefit from sick pay, pensions, extra-statutory annual leave, etc., on a *pro-rata* basis with full-time employees.

- *Make sure that part-time employees have career progression opportunities*

Part-time employees are often denied the possibility of a career within the organisation for which they work. This may stem from the "total commitment" culture or from a belief that part-time employees do not want career progression. All employees, part-time or otherwise, should be given the opportunity to progress within the organisation.

- *Consider the opportunities for senior as well as junior part-time work*

Consider carefully the objective requirements of all jobs within the organisation to establish if they could be done on a part-time or other atypical arrangement. Opportunities for part-time work should not be restricted to junior positions. Many kinds of responsible jobs will, with a little thought, ingenuity and goodwill, be found to be suitable for part-time work.

Teleworkers and other Homeworkers

- *Treat homeworkers on an equal basis with other workers in your employment*

Homeworkers, whether in traditional established industries or the emerging teleworker, are often discriminated against in relation to other employees. They may be paid less for similar work or have less favourable conditions of employment. In some cases, they are treated as contractors when they remain, in reality, employees. An equality policy requires that homeworkers should be treated on an equal basis as other employees, in matters such as pay, bonuses, leave, fringe benefits, etc.

- *Small employers -don't despair! Even if you cannot implement a full equality programme, there are elements which are quite feasible and will make a significant difference to equality of opportunity in your employment*

The Small Employer

Small employers may feel that an equality policy and a positive action programme are too ambitious to undertake. There are, however, many sources of advice to help with designing a programme which will suit your particular circumstances. EEA, or your employer federation, can give you expert advice on what is entailed by each element of an equality policy or positive action scheme. At the very least, small

employers should ensure that when recruiting or promoting people, any past patterns of discrimination is not continued. Make an active effort to recruit women and men into areas in which they have not previously worked.

Small employments, where everyone has to be flexible, provide an ideal opportunity for ensuring that employees receive varied training and work experience. A clear indication that all suitably qualified and experienced employees are invited to apply for promotional positions may be all that is required to open up new job opportunities to employees.

- *Small employments have their own unique opportunities for positive action*

Small employments may also give opportunities for flexible working time which will help people with family responsibilities to obtain and keep their employment.

All employers, no matter how small, should have, at the very least, a sexual harassment policy.

As a small employer, do not be discouraged by issues of formality. A recent study at EU level covering 500 of Europe's most successful small employers showed that most of them attributed a large part of their success to the fact that they had formalised their policies.

- *Formalising your policies may contribute to their successful operation*

A MODEL POLICY ON HARASSMENT AT WORK

9

INTRODUCTION

In recent years, case law and a rising level of queries to EEA has shown that gender-based harassment, more commonly referred to as 'sexual harassment', is a serious and extensive problem in Ireland. It is clear, also, that other groups suffer harassment for a variety of reasons, for example on grounds such as sexual orientation, disability, or race/ethnic origin. Experience has shown that an organisational culture which is hostile to unacceptable standards of behaviour generally will be more likely to prevent harassment occurring. EEA, therefore, urges all organisations to draw up general harassment policies which reflect best practice standards rather than the minimum of avoiding unlawful behaviour. The former in any event is more practical as well as more effective.

Harassment of employees, whether by a more senior person in the organisation or by their fellow-employee, is an attack on the dignity of the individual. It also has significant consequences for the efficient operation of the workplace as it is clear that harassment, particularly sexual harassment, lowers morale, causes sickness absence and generally adversely affects the efficiency of the organisation concerned.

EEA recommends that managers, supervisors, or others with responsibility in this area should consult the Irish *Code of Practice on Measures to Protect the Dignity of Women and Men at Work*, available free from EEA.

FORMS OF SEXUAL HARASSMENT

Although gender-based or sexual harassment is frequently misunderstood as some form of sexual attraction, more generally it occurs as an abuse of power in the employment context when a person's gender is used to undermine or humiliate her/him. It is predominantly women who experience harassment since they are mainly in the lower paid and graded positions while men occupy positions of relative power. There are no stereotypical victims, even women in senior positions in organisations have experienced this problem. Employers should also be aware that men, particularly young, shy men, are vulnerable to sexual harassment at work.

Gender-based harassment can take many forms, such as leering, ridicule, sexually suggestive or embarrassing remarks, unwelcome sexual approaches, unwelcome comments about dress or appearance, offensive pictures, even physical contact or rape. The problem can often be underestimated because of commonplace misunderstandings as to the nature of harassment. It should not be defined as simply a form of physical abuse but, in a broader sense, as any behaviour which asserts a person's gender over their role as a worker and which is offensive or intimidating. Both the Irish and the European Commission Codes of Practice define sexual harassment as,

> 'unwanted conduct of a sexual nature or other conduct based on sex affecting the dignity of women and men at work.'

Unwelcome attention

Harassment is unwanted attention which is offensive or intimidating to the recipient. It should be made clear to staff that behaviour or attention which is welcome to the recipient does not constitute sexual harassment. A reciprocal sexual relationship, therefore, is not a valid basis for a complaint of this kind. However, if consent is withdrawn from such a relationship, attention then becomes unwelcome and could constitute sexual harassment.

Subjectivity

Not everyone finds the same behaviour offensive, however, and the inevitable subjectivity involved in describing a particular experience as either acceptable or offensive can be problematic. This may partly explain the lack of understanding and sympathy from others which often results in responses such as :

It's a only a joke - you've no sense of humour

It's healthy and normal

It's flattering

I wouldn't mind being harassed by her/him

It's nothing to get upset about

Best practice would suggest that an individual should be free to determine what behaviour is acceptable to her/him and this should not be undermined by the fact that others may consider the offending behaviour acceptable.

Other forms of harassment

Other forms of harassment should also be considered by an organisation drawing up an harassment policy. These are no less important in their effects on individuals and on the operation of the workplace. Like sexual harassment, most other forms of harassment assert a person's membership (or perceived membership) of a group over their role as a worker and are, in essence, an attack on the dignity of the individual.

These forms of harassment include:

harassment on grounds of disability, which includes remarks or innuendo or the display of material which would be offensive to a disabled person and the playing of cruel practical jokes, such as removing essential aids to mobility or essential work equipment out of reach. Persons suffering or suspected of suffering from AIDS could also be vulnerable to this form of harassment.

harassment on grounds of sexual orientation, which can take many forms, from innuendo to physical assault.

harassment on grounds of race/ethnic origin, which can include jokes about particular racial groups or, for instance, travellers, as well as more severe forms of harassment.

harassment on grounds of religion, which, as well as innuendo and other common types of harassment, could include circulation of literature hostile to a particular religious group.

general harassment or bullying, which can take many forms, sometimes with an overt sexual element, and can include practical jokes or physical assault.

Employers who are serious about preventing harassment should be concerned to eliminate general harassment or bullying of employees, especially of young vulnerable employees; if the culture of an organisation permits even minor forms of harassment it is more likely that serious harassment will occur. Bullying can have very serious adverse effects on individuals and employers should also be aware of their responsibilities under the Safety, Health & Welfare at Work Act, 1989, which could be breached by a failure to take preventive action. This is particularly so where there is a risk of physical injury.

Impact on organisation

Harassment is an economic issue for employers; it can poison the working environment and impact on the health of workers, for example causing or contributing to stress, anxiety, tension, irritability, depression, fatigue, headaches, etc.. It can also undermine morale and commitment among workers generally, while more specifically resulting in missed promotional opportunities or termination of employment for the target of the harassment. This can of course cause many problems for employers, for example, time losses, inefficiency, loss of skills.

Harassment Policy

Sexual harassment is an equal treatment issue, impacting mainly on women rather than on men and imposing double standards in employment. Organisations should be aware that in 1985, the Labour Court established that freedom from sexual harassment is a 'condition of work' which an employee of either gender is entitled to expect. The Court further said that it would treat any denial of that freedom as discrimination within the terms of the Employment Equality Act, 1977.

There is an onus on employers, therefore, to try to ensure that the working environment is free of sexual harassment. One mechanism for achieving this is an effective harassment policy. EEA recommends that the policy should be separate from other policies although it is, of course, preferable that harassment be included as a section in a general equality policy than not dealt with at all.

Employers may decide not to draw up a general harassment policy in advance of possible future legislation which will extend the scope of existing legislation beyond gender and marital status discrimination. However since a policy which attempts to prevent all forms of harassment is most likely to succeed in preventing sexual harassment, it makes sense to draw up a *general* policy.

A harassment policy should include definitions of the various forms of harassment, so that all staff are clear on what the policy covers; it should also include special grievance and disciplinary procedures which ensure that staff know how to make a complaint if harassment occurs. Specialist training should be provided to management and supervisory staff regarding the implementation of the policy and procedures. All staff should be given a copy of the harassment policy and the policy should form part of the induction programme for new staff.

A sample harassment policy and procedure are outlined at Appendix 1; employers drawing up a policy and procedure of this kind should also consult the Irish *Code of Practice on Measures to Protect the Dignity of Women and Men at Work,* in particular sections 4 and 5.

APPENDIX I

I. Sample Policy Outline

[Section 4 of the Irish *Code of Practice on Measures to Protect the Dignity of Women and Men at Work*, should be consulted when drafting this policy.]

This policy covers harassment of any form in ABC Ltd. Harassment includes:

- harassment on grounds of gender
- harassment on grounds of sexual orientation
- harassment on grounds of disability
- harassment on grounds of race/ethnic origin
- harassment on grounds of religion
- general harassment/bullying

ABC Ltd. will not tolerate harassment of employees in any form and will apply this policy and its procedures to any reported instances.

1. Definitions

Sexual harassment is defined as unwanted conduct based on a person's gender which is offensive to the recipient, and which might threaten a person's job security or create a stressful, hostile, or intimidating working environment. While sexual harassment is usually directed at women, it can also be directed at men.

Sexual harassment takes various forms, for example:

- verbal, e.g., jokes, innuendo, requests for sexual favours, persisting in attempts to continue a relationship from which the consent of one party has been withdrawn, etc.
- visual, e.g., display of or sending offensive pictures, slogans, etc.
- physical, e.g., unwanted physical contact, from 'groping' to rape.

Harassment on grounds of sexual orientation may take several forms, from jokes and innuendo to serious physical assault and may include a person's perceived rather than actual sexual orientation.

Harassment on grounds of disability may include

- verbal harassment, e.g. jokes about the person's condition
- visual harassment, e.g. display of offensive pictures or imitation of a disabled person's gait
- physical harassment, e.g., unwanted contact, removal of essential aids or equipment out of reach, physical assault

Harassment on grounds of race/ethnic origin may include

- verbal harassment, e.g., offensive jokes or remarks about a person's race or ethnic origin (which includes membership of the travelling community)
- visual harassment, e.g., display of material offensive to a particular racial or ethnic group, such as cartoons, racial propaganda material, etc.,
- physical harassment, e.g., physical assault.

Harassment on grounds of religion may include

- verbal harassment, e.g., offensive jokes or remarks about a person's religious affiliation or practices
- visual harassment, e.g., the display or circulation of material offensive to a particular religion
- physical harassment, e.g. physical assault.

General harassment/bullying of any kind will not be tolerated by ABC Ltd.

2. Location

Harassment can take place

- in the workplace
- at functions, such as Christmas parties or sports functions, taking place under the aegis of ABC Ltd.
- at any other place where employees of ABC Ltd. are present on company business, such as training courses, business meetings away from the company's workplace, etc.

3. Undertaking by management.

Any complaint involving harassment will be immediately, seriously and sympathetically investigated. It is recognised that harassment, especially sexual harassment, is very difficult for all concerned to deal with. If there are grounds for the complaint, the perpetrator will be subject to disciplinary action. Full information sessions on this subject will be provided for all staff at the launch of this policy. Additionally, all new employees will be supplied with a copy of this policy and a briefing session at induction.

4. Responsibility

All employees are responsible for ensuring that sexual harassment does not occur at any level in ABC Ltd. However ABC Ltd. accepts that ultimate responsibility rests with management. All supervisors and management will ensure that staff reporting to them are aware of their responsibilities under this policy and, further, that any harassment or intimidation of which they are aware is eliminated, including pornographic or offensive material. Any failure to do so will be considered a failure to fulfil the responsibilities attaching to their position.

II. PROCEDURES

[Section 5 of the Irish *Code of Practice on Measures to Protect the Dignity of Women and Men at Work*, should be consulted when drafting these procedures.]

1. A staff member who feels that s/he has been harassed should immediately ask the person harassing them to stop. If they feel they cannot do so directly, they should communicate through a third party, e.g. a friend, sympathetic colleague, line supervisor/manager, or union representative. Complaints will be resolved informally where possible.
2. If the behaviour complained of does not cease (or if in the first instance it is of a nature that the recipient feels it should be reported) the alleged act should be reported to the immediate supervisor or, if this is not appropriate, to the designated manager as soon as possible. It may be necessary to put the complaint in writing at this stage. A note should be kept of dates, incidents, and witnesses, if any.
3. All complaints will be dealt with promptly and sympathetically. The complaint will be investigated confidentially as far as possible. All those concerned are guaranteed a fair and impartial hearing.
4. The complainant will be kept informed of progress during the investigation. The facts of the allegation will be checked as discreetly as possible, where this is appropriate, and an effort will be made to establish if any other staff have experienced similar problems.
5. The alleged perpetrator will be given details of the allegation and an opportunity to reply.
6. Where a union member is involved, both parties may be represented by their trade union.
7. If, after investigation, it appears that the complaint was well-founded, disciplinary action will be taken to stop the harassment immediately and prevent its recurrence.
8. Possible sanctions may range from verbal warning to transfer or dismissal. Management will discuss with the complainant what action s/he wishes to be taken; however, the decision as to what action is appropriate will be a matter for management. In some

instances, an apology and assurance of no recurrence will suffice. If a transfer is necessary, every effort will be made to relocate the harasser, not the victim.

9. Staff will be protected from intimidation, victimisation or discrimination resulting from their alleging harassment or assisting with an investigation. It should be noted that any victimisation of an employee for reporting an incident, or assisting with an investigation, of alleged sexual harassment is, in itself, a breach of equality legislation.

APPENDIX II

Model Equal Opportunities Policy Policy Statement

ABC Ltd. is committed to providing equal opportunities for all its employees and seeks to develop all employees so that they can contribute to the best of their ability to the organisation.

Scope

ABC Ltd. undertakes to treat all employees and job applicants fairly and to guard against discrimination on grounds of gender, marital or family status, sexual orientation, disability, race, religion, colour or membership of the Travelling Community.

ABC Ltd. agrees to meet its legal obligations in this regard and to promote equal opportunity throughout the organisation. The Employment Equality Act, 1977 makes it unlawful to discriminate either directly or indirectly on grounds of sex or marital status. Direct discrimination generally occurs where two individuals in comparable situations have not been treated equally. Direct discrimination is always unlawful. Indirect discrimination occurs where two groups, for example full time and part-time workers, receive different treatment. If a rule, practice or requirement impacts more heavily on one group, it will be deemed to be indirectly discriminatory unless it can be shown that the practice or rule can be objectively justified. The legislation makes it an offence to penalise an employee for exercising their right to equal treatment.

Equality in Practice

All employees have a role to play in ensuring the effective implementation of the equality policy. Management and supervisors bear particular responsibility in this regard.

Recruitment and Selection

All positions in the company are open to suitably qualified men and women applicants, irrespective of marital status. Applicants will be given details of job requirements to enable them determine their suitability for positions. Job requirements will relate to the actual duties of the post. Recruitment and promotional material will indicate the organisation's commitment to equal opportunity.

Individuals will be selected, promoted and treated on the basis of their abilities and merits and according to the requirements of the job. Every effort will be made to provide mixed gender interview boards. Training in good interview practice and in the prevention of discrimination will also be a priority.

Training

ABC Ltd. is committed to developing its employees and will inform them of all suitable training and educational opportunities. Equal opportunity issues will feature in staff development training programmes. ABC Ltd. recognises that single sex training is permitted to encourage fair gender representation in employment.

Equal Pay

ABC Ltd. is committed to ensuring equal pay for work of equal value and accordingly pay levels will be determined with reference to work of equal value.

Combining work and family responsibilities

ABC Ltd. recognises that a variation or reduction in working hours can greatly assist employees with caring responsibilities in combining their work and personal roles. ABC Ltd. accordingly will favourably consider requests for flexible working arrangements as they arise. ABC Ltd. will develop in consultation with employees will develop a policy on flexible working and other options.

Pregnancy and Maternity

ABC Ltd. wishes to advise its employees that all employment rights are protected by, law during pregnancy. In particular employees should be aware of their entitlement to 14 weeks' maternity leave with a right to return to their job. Employees should further be aware that ABC Ltd. will take appropriate measures to ensure the health and safety of pregnant and breastfeeding women.

Harassment

ABC Ltd. recognises that employees are entitled to have their dignity respected while at work and that freedom from sexual harassment is a legal right. All employees will receive a copy of the company's anti-harassment policy and can be assured that harassment complaints will be investigated sensitively and confidentially in accordance with the agreed procedures.

Grievances

Breaches of the equality policy will be investigated internally through the normal grievance procedure.

Monitoring and implementation of the Policy

Line managers and supervisors are primarily responsible for implementing the policy and will be supported by an Equality Officer based in the Human Resources Department and an Equality

Committee representative of management and employees. The policy will be regularly reviewed to assess its effectiveness. A profile of the organisation will be complied to assist with the implementation of the policy.

Equality Programme

This policy will be supported by a programme of activities worked out in consultation with employees to ensure the removal of all barriers, procedures, attitudes and behaviour which inhibit equal opportunity. This programme will include training for line managers.

ABC Ltd. recognises that care is needed to ensure that negative traditional male and female employment patterns are not perpetuated. A stated aim of the policy therefore is to achieve, where possible, a balanced representation of men and women at all levels throughout the organisation.

_____	_____
Employer	Trade Union Representative

SOURCES OF INFORMATION ON EQUALITY AND POSITIVE ACTION

Employment Equality Agency
36 Upper Mount Street, Dublin 2
Telephone: (01) 6624577 Fax: (01) 6625139
EEA provides detailed information and advice on the implementation of equality policies and positive action and advice on implementation of the equality legislation.

Irish Business & Employers Confederation
Confederation House, 84-86 Lower Baggot Street, Dublin 2
Telephone: (01) 6601011 Fax: (01) 6601717
IBEC advises its members on equality policies and positive action and can provide training for staff involved in their implementation.

The Construction Industry Federation
Federation House, Canal Road, Dublin 6
Telephone: (01) 4977487 Fax: (01) 4966953
The CIF has drawn up an equality programme for its members which includes video material.

The Irish Congress of Trade Unions
19 Raglan Road, Dublin 4
Telephone: (01) 6680641 Fax: (01) 6609027
ICTU provides information, advice and training for its constituent union members on equality matters.

Institute of Personnel and Development
7/8 Upper Mount Street, Dublin 2
Tel: (01) 676 6655
The Institute is engaged in the management and development of people in employment.

SOME SUGGESTED READING

Browne, J.; *Equal Opportunities and Collective Bargaining in the EU Exploring the National Situation in Ireland;* Working Paper No: WP/96/53/En; European Foundation for the Improvement of Living and working Conditions, Dublin, 1996.

Callender, R. & Meenan, F.; *Equality in Law Between Men and Women in the European Community - Ireland*; Martinus Nijhoff & Office for Official Publications of the EC, Dordrecht and Luxembourg, 1994.

Collinson, D.L;, Knights, D. and Collinson; M. *Managing to Discriminate* ; Routledge, London and New York, 1990.

Commission of the European Communities; *How to Combat Sexual Harassment at Work*; Office for Official Publications of the European Communities, Luxembourg, 1993.

Commission of the European Communities; *A Code of Practice on the Implementation of Equal Pay for work of Equal Value for Men and Women*; Office for Official Publications of the European Communities, Luxembourg, 1996

Curtin, D.; *Irish Employment Equality Law*; Round Hall Press, Dublin, 1989.

Department of Equality and Law Reform; *Measures to protect the Dignity of Women and Men at Work*; Dublin 1994

Fisher, H.; *Introducing Family Friendly Initiatives in the Workplace*; Employment Equality Agency, Dublin 1996

Irish Congress of Trade Unions; *European Caselaw and Equality, a Guide for Negotiators*; Dublin, 1994.

Lin Lean Lim; *More and Better Jobs for Women*; International Labour Office, Geneva, 1996

McCarthy, E.; *Transitions to Equal Opportunity at Work in Ireland: Problems and Possibilities*; Employment Equality Agency, Dublin, 1988.

Printed by Genprint Ireland Ltd