Sexual Harassment Policy

A) INTRODUCTION

1) All members of staff are entitled to be treated with dignity and respect in our place of work. This means freedom from sexual harassment, feeling safe and supported, and having access to redress if such behaviour does arise.

2) Sexual harassment takes many forms, but whatever form it takes, it is unlawful under the Equality Act 2010 as amended. We will not tolerate it.

3) The law requires employers to take **all** reasonable steps to prevent sexual harassment of their workers. We take action to prevent sexual harassment from occurring and have clear reporting procedures for our staff to make a complaint about sexual harassment. If you have been sexually harassed, or you have witnessed sexual harassment, we encourage you to tell us so that we can deal with the matter swiftly.

4) **HR** has overall responsibility for the operation of this policy but may delegate elements of implementation or decision making to **Line Managers**. Our managers will maintain an open-door policy. All of our staff have a responsibility to behave in line with the requirements of this policy.

5) Instances of sexual harassment or victimisation may lead to disciplinary action including termination of employment.

6) This policy is reviewed regularly to ensure it remains up to date and in order to monitor its effectiveness. Any changes required will be implemented and communicated to our workforce.

B) SCOPE

We deplore all forms of sexual harassment and seek to ensure that the working environment is safe and supportive to all those who work for us. This includes employees, workers, agency workers, volunteers and contractors in all areas of our Company, including any overseas sites.

C) DEFINITIONS

1) Sexual harassment is unwanted conduct of a sexual nature which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. It also covers treating someone less favourably because they have submitted to or refused to submit to unwanted conduct of a sexual nature, or that is related to gender reassignment or sex.

2) Sexual harassment may be committed by a fellow worker, an agent of an organisation, or a third party. It does not need to occur in person. It can occur via digital means including social media sites or channels e.g. WhatsApp. Someone may be sexually harassed even if they were not the target of the behaviour. Examples of sexual harassment include, but are not limited to:

   a) sexual comments or jokes, which may be referred to as ‘banter’
   b) displaying sexually graphic pictures, posters or photos
   c) suggestive looks, staring or leering
   d) propositions and sexual advances
   e) making promises in return for sexual favours

f) sexual gestures
g) intrusive questions about a person's private or sex life or a person discussing their own sex life
h) sexual posts or contact in online communications including on social media
i) spreading sexual rumours about a person
j) sending sexually explicit emails, text messages or messages via other social media
k) unwelcome touching, hugging, massaging or kissing

3) Victimisation is subjecting someone to detriment because they have done, are suspected of doing, or intend to do an act which is protected under discrimination and harassment laws. It is not necessary for the person to have done the protected act in order for detrimental treatment to be considered as victimisation.

4) The protected acts are:

a) making a claim or complaint under the Equality Act 2010 (for example, for discrimination or harassment)
b) helping someone else to make a claim by giving evidence or information in connection with proceedings under the Equality Act 2010
c) making an allegation that someone has breached the Equality Act 2010, or
d) doing anything else in connection with the Equality Act 2010

5) Examples of victimisation may include:

a) Failing to consider someone for promotion because they have previously made a sexual harassment complaint
b) Dismissing someone because they accompanied a colleague to a meeting about a sexual harassment complaint
c) Excluding someone from work meetings because they gave evidence as a witness for another employee as part of an employment tribunal claim about harassment

D) CIRCUMSTANCES WHICH ARE COVERED

This policy covers behaviour which occurs in the following situations:

a) a work situation
b) a situation occurring outside of the normal workplace or normal working hours which is related to work, for example, a working lunch, a business trip or social functions
c) outside of a work situation but involving a colleague or other person connected to the Company, including on social media
d) against anyone outside of a work situation where the incident is relevant to your suitability to carry out the role

E) WHAT TO DO IF YOU ARE SUBJECT TO SEXUAL HARASSMENT OR VICTIMISATION

1) We are committed to ensuring that there is no sexual harassment or victimisation in our workplace. Allegations of sexual harassment and victimisation will be treated as a disciplinary matter, although every situation will be considered on an individual basis and in accordance with the principles of our disciplinary procedures, **as detailed in the Employee Handbook**.

2) **Informal complaint**
We recognise that complaints of sexual harassment or victimisation can be of a sensitive or intimate nature and that it may not be appropriate for you to raise the issue through our normal **Complaints & Concerns procedure (see Employee Handbook).** In these circumstances you are

encouraged to raise such issues with a senior colleague of your choice (whether or not that person has a direct supervisory responsibility for you) as a confidential helper. This person cannot be the same person who will be responsible for investigating the matter if it becomes a formal complaint.

3) If you experience sexual harassment and you feel comfortable to do so, you should make it clear to the harasser on an informal basis that their behaviour is unwelcome and ask the harasser to stop. If you feel unable to do this verbally then you should hand a written request to the harasser, and your confidential helper can assist you in this.

4) In addition, you may also choose to raise concerns during your regular communication with your Line Manager, for example, in a 1-2-1 meeting. Your Line Manager will listen to you and take your concerns seriously if you do this but may encourage you to follow the reporting procedures set out below.

5) **Formal complaint**
Where the informal approach fails or you do not wish to use the informal procedure, you should bring the matter to the attention of your **Line Manager or the HR Manager** as a formal written complaint and again your confidential helper can assist you in this.

   If possible, you should keep notes of what happened so that the written complaint can include:

   a) the name of the alleged harasser;
   b) the nature of the alleged harassment;
   c) the dates and times when the alleged harassment occurred;
   d) the names of any witnesses; and
   e) any action already taken by you to stop the alleged harassment.

6) On receipt of a formal complaint, we will take action to separate you from the alleged harasser to enable an uninterrupted investigation to take place. This may involve a temporary transfer of the alleged harasser to another work area or suspension with contractual pay until the matter has been resolved.

7) The person dealing with the complaint will invite you to attend a meeting, at a reasonable time and location, to discuss the matter and carry out a thorough investigation. The meeting will normally be held within five working days of receipt of your complaint. You have the right to be accompanied at such a meeting by your confidential helper or another work colleague of your choice and you must take reasonable steps to attend. Those involved in the investigation will be expected to act in confidence and any breach of confidence may be dealt with under the disciplinary procedure.

8) On conclusion of the investigation, which will normally be within ten working days of the meeting with you, the decision of the investigator, detailing the findings, will be sent in writing to you.

9) You have the right to appeal against the findings of the investigator. If you wish to appeal you must inform **the HR Manager** within five working days. You will then be invited to a further meeting. As far as reasonably practicable, ESB will be represented by a more Senior Manager than attended the first meeting (unless the most Senior Manager attended that meeting).

10) Following the appeal meeting, you will be informed of the final decision, normally within ten working days, which will be confirmed in writing.

11) Regardless of the outcome of the procedure, we are committed to providing the support you may need. This may involve mediation between you and the other party or some other measure to manage the ongoing working relationship.

12) You will not be victimised for having brought a complaint.

F) WHAT TO DO IF YOU WITNESS SEXUAL HARASSMENT OR VICTIMISATION

1) If you witness sexual harassment or victimisation, you are encouraged to take action appropriate action to address it. You should not take any action that may put you at risk of sexual harassment or other harm. If you feel able, you should intervene to prevent the matter continuing. If you are not able to do this, your action may include offering support to the person who has been sexually harassed and encouraging them to report the incident or reporting the incident yourself.

2) If reporting the incident, you should bring the matter to the attention of your **Line Manager or the HR Manager** in writing.

3) Your concerns will be handled by your **Line Manager or the HR Manager** who will sensitively talk to the person subject to sexual harassment to determine how they want the matter to be handled.

G) THIRD-PARTY SEXUAL HARASSMENT

1) Third-party sexual harassment occurs when one of our workforce is subjected to sexual harassment by someone who is not part of our workforce but who is encountered in connection with work. This includes **Trustees, Friends of ESB, Assessors, Markers, Writers, our customers, service users, suppliers, members of the public and friends and families of colleagues.**

2) Third-party sexual harassment of our workforce is unlawful and will not be tolerated. The law requires employers to take **all** reasonable steps to prevent sexual harassment by third parties.

3) The law does not provide a mechanism for individuals to bring a claim of third-party harassment alone. However, failure for an employer to take **all** reasonable steps to prevent third-party sexual harassment may result in legal liability in other types of claim.

4) If you have been subjected to third-party sexual harassment, you are encouraged to report this as soon as possible to your **Line Manager or the HR Manager**.

5) Should a customer sexually harass a member of our workforce, we will warn the client or customer about their behaviour/ban the customer/share the information with other colleagues. Any criminal acts will be reported to the police.

6) We will not tolerate sexual harassment by any member of our workforce against a third party. Instances of sexual harassment of this kind may lead to disciplinary action including termination of employment.

H) DISCIPLINARY ACTION

1) If the decision is that the allegation of sexual harassment or victimisation is well founded, the harasser/victimiser will be liable to disciplinary action in accordance with our disciplinary procedure up to and including summary dismissal. An employee who receives a formal warning or who is dismissed for sexual harassment/victimisation may appeal by using our disciplinary appeal procedure.

2) When deciding on the level of disciplinary sanction to be applied, we will take into consideration any aggravating factors affecting the case. One example of aggravating factors is an abuse of power over a more junior colleague.

3) If, due to the investigation, it is concluded that your complaint is both untrue and has been brought with malicious intent, disciplinary action will be taken against you.

I) TRAINING

1) We provide training to all our staff on sexual harassment to ensure there is a clear understanding of, amongst other things, what sexual harassment is and how it may occur, that it will not be tolerated, expected levels of behaviour, how they can report any incidents of having been sexually harassed or having witnessed it and that acts of harassment will be dealt with under the disciplinary procedure potentially resulting in dismissal.

2) We ensure that all levels of management are trained on implementing this policy including preventing and managing sexual harassment in the workplace, and the procedure to follow if an allegation is reported.

3) We will regularly review the effectiveness of our training.

4) We provide refresher training as appropriate.

I confirm I have read, understood and agree to ESB's Sexual Harassment Policy.

Signed: ……..

Dated: ……..

ESB Department: ……..