



Oifig um Sholáthar Rialtais  
Office of Government Procurement

## **USER GUIDE FOR FRAMEWORK CLIENTS**

### **EXTERNAL WORKPLACE INVESTIGATION SERVICES**

## **MULTI-SUPPLIER FRAMEWORK AGREEMENT**

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## 1.0 INTRODUCTION

The Office of Government Procurement on behalf of the Minister for Public Expenditure & Reform has carried out an advertised competitive tender process for the establishment of a Framework Agreement for the provision of External Workplace Investigation Services (EWIS) available to central government departments and other public bodies, “Framework Clients”<sup>1</sup>.

This Framework is for an initial period of one year, renewable annually to a maximum duration of 4 years, subject always to satisfactory performance.

The Framework Members are as follows:

- Acrux Consulting Limited;
- Collier Broderick Management Consultants and;
- Raise A Concern Limited.

## 1.1 WHAT IS THE EXTERNAL WORKPLACE INVESTIGATION SERVICE (EWIS) FRAMEWORK

The purpose of this Framework Agreement is to establish a panel of external professional investigators to conduct formal workplace investigation services. For Central Government bodies these services are required in accordance with the Department of Public Expenditure and Reform (DPER) ["Dignity at Work"](#) Policy, An Anti-Bullying, Harassment and Sexual Harassment Policy for the Irish Civil Service.

The Framework is also open for use by non-civil service public-sector Framework Clients in accordance with their specific in-house HR policies.

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### **Parties eligible to participate in this Framework -**

- Ministers of the Government of Ireland, Central Government Departments, Offices and Non-Commercial Agencies and Organisations which have a formal reporting and legal relationship to Central Government Departments, including all Local Authorities in Ireland (as defined in the Local Government Act 2014 and including Regional Assemblies and Local Enterprise Offices);
- Bodies in the Irish health sector including the Health Service Executive (HSE), Hospitals, Funded Agencies and the Health Information and Quality Authority (HIQA);
- Bodies which are Third Level Educational Institutions (including universities, institutes of technology and members of the Education Procurement Service);
- Bodies which are Education and Training Boards (ETBs) and ETB schools, and primary, post-primary, special and secondary schools as well as ETBs

Framework Members are required to assist and support Framework Clients in the implementation of all relevant legal obligations and best practice requirements in an investigation and resolution of staff complaints of bullying, harassment and sexual harassment as well as in cases involving Disciplinary Procedures for the civil service/public body organisations.

The purpose of this Framework Agreement will to be to provide external formal workplace investigation services only (mediation services are NOT included). The scope of the services available includes:

- (i) workplace relations, in particular matters involving bullying, harassment and sexual harassment;
- (ii) Investigations linked to Disciplinary Code; and
- (iii) Independent reviews of in-house investigations involving (i) or (ii) above, as and when required.

The specific requirements for a Framework Client will be set out by the Framework Client for each Supplementary Request for Tenders, and contracts will be drawn-down by means of the competitive process set out in Appendix I which will be overseen by OGP.

By being admitted into the EWIS Framework Agreement, the three Framework Members have satisfied the Contracting Authority in the following areas:

- Technical and Professional Resources.
- Experience of Workplace Investigations and Case Reporting in relation to Bullying, Harassment, Sexual Harassment or Discipline

Framework Members have provided details for each of their nominated External Workplace Investigators. Full details (including CVs) of the Framework Members nominated external workplace investigators, were provided for entry onto the Framework, and must be provided to the Framework Client with each SRFT response.

This list of nominated investigators may be updated by the Framework Member from time-to-time. Changes in the identity of any nominated individual workplace investigator provided may not be made without the prior written approval of OGP.

For entry to the Framework, Members have demonstrated their capacity to deliver external workplace investigations together with Contract Management and Reporting information.

The sole award criteria for supplementary requests for tenders is price.

## 1.2 WHY USE THE FRAMEWORK FOR THE PROVISION OF EWIS?

### Supporting Government Policy

Use of the Framework will ensure compliance with relevant EU and national public procurement obligations for the Framework Clients with a minimum of administrative effort. It supports the government policy of maximising savings through centralised procurement and provides consistency with the Public Sector Reform Agenda by driving efficiencies through the application of better business processes.

### Professionalisation of HR Investigations

During the course of the review of the anti-bullying and harassment policy, A Positive Working Environment, it emerged that the sourcing of investigators has been problematical. In addition it was found that investigations were protracted, sometimes as a result of the investigation being carried out by a Civil Servant who also had normal duties at the same time. It was therefore recommended when developing the new policy 'Dignity At Work' that external Investigators would be used where investigations are required. The Framework will enable civil service organisations to source appropriately qualified investigators to carry out an investigation in a reasonable time frame in accordance with the Terms of Reference, while ensuring that best value for money is obtained at the same time.

### Account Management/Reporting

The successful Framework Members have each nominated a dedicated Key Account Manager to oversee the effective and efficient operation of this Framework Agreement. This includes responsibility for reporting to both the Clients and the Framework Manager in the OGP. The provision of Contract Management Information and Case Reports by the Framework Members is integral to the successful operation and delivery of the workplace investigation service. The information gathered from this exercise will be extremely valuable in quantifying current savings and enabling public sector bodies understand the scope of this service being delivered.

### Value for Money

The achievement of value for money is further supported as the award of the specific investigations is subject to a further competitive stage whereby Framework Clients can tailor the investigation requirements to their particular needs as well as maintaining competition on rates.

## 1.3 HOW TO DRAW DOWN AN EXTERNAL WORKPLACE INVESTIGATOR FROM THE FRAMEWORK AGREEMENT

The Office of Government Procurement will support the draw-down of services by using the eTenders system to run mini-competitions on behalf of the Framework Clients as and when needs arise. This will ensure that spend and usage data is fully captured and that the Framework is being used properly and effectively in the purchase of training services at competitive rates.

The Framework Client must complete a Supplementary Request For Tenders (SRFT), available for download on [procurement.ie](https://procurement.ie). The SRFT must clearly specify any particular requirements in relation to EWIS while at all times being mindful of confidentiality. The SRFT should detail any particular terms of reference required such as the applicable protocols or policy where the Dignity at Work Policy is not relevant to the Client for the specific investigation services and for the investigation to make it relevant to those particular types of request.

The SRFT must invite the Framework Members to provide a tailored tender submission, clearly outlining the service provider's proposed approach.

When completed, the SRFT should be sent to OGP at [support@ogp.gov.ie](mailto:support@ogp.gov.ie) **at least two weeks in advance of the proposed investigation.**

OGP will issue the SRFT to the Framework Members with an appropriate response time having regard to the date the investigation is expected to commence. The SRFT Responses will be relayed to the requesting body who will be advised of the lowest priced tender and nominated investigator. OGP will notify the selected investigator who will then contact the requesting body to make the detailed arrangements. The OGP will notify the unsuccessful Framework Members at the same time.

All invoices will be issued direct to the requesting body for payment, and all queries or other matters to do with payment are to be dealt with between the Framework Client and the Framework Member.

## APPENDIX 1

### Supplementary Request for Tenders – External Workplace Investigation Services

**Name and address of Framework Client:**

**Date(s) on which investigation is required to commence:**

**Venue:**

**Outline Details of Investigation** (*consider confidentiality & provide appropriate information only*):

**Particular Requirements for this External Workplace Investigation (eg. Internal policy documents, guidance, protocols):**

**Other Relevant Information:**

## PRICING SCHEDULE

### Preamble

- 1) This schedule must be completed by the Tenderer.
- 2) The rates and prices quoted in the Pricing Schedule must be all-inclusive and include all costs associated with the provision of Workplace Investigation Services howsoever incurred, (and in particular travel expenses) together with all general risks, liabilities, and obligations set out or implied in this Request for Tenders and the Framework Agreement.
- 3) All rates and prices quoted in the pricing schedules must be in Euro, to two decimal places, exclusive of VAT, except as expressly provided.
- 4) The quantities provided are estimated and provisional and are not to be considered as a guarantee of any minimum volumes. Figures have been established from historic data and no undertaking can be given regarding the proposed Framework Agreement.
- 5) Prices quoted will remain fixed for the duration of any contract awarded.
- 6) Tenderers must not insert additional items in the Pricing Schedule, or make any alterations to the Pricing Schedule.
- 7) The rate per hour price quoted in this competition will be the rate per hour applicable for the Initial External Workplace Investigation Contract.

### PRICING SCHEDULE – THIS MUST BE COMPLETED BY FRAMEWORK MEMBERS

Item	Quantity	Unit	Rate per Hour	Total Cost (excluding VAT)
Workplace Investigator	[ ] <sup>1*</sup>	Hours	€ _____	€ _____

<sup>1</sup> Figure to be inserted by the Framework Client

\* The number of hours listed above is not a guarantee of the actual hours of work to be completed under the initial workplace investigation contract. The Contracting Authority reserves the right to vary the number of hours as required by the particulars of the case. In the event that additional hours are required, these shall be provided at the rates tendered in response to the SRFT.

The lowest priced tender will be awarded any Contract pursuant to this SRFT.

It is hereby confirmed that my tender will remain valid for a period of 180 days from the closing date for receipt of tenders.

**DETAILS OF NOMINATED INVESTIGATOR - THIS MUST BE COMPLETED BY FRAMEWORK MEMBERS**

The Framework Member, on award of a Contract by a Framework Client agrees to execute and comply with the terms and conditions of the Services Contract.

## PROTOCOL FOR EXTERNAL WORKPLACE INVESTIGATIONS

Framework Members will comply with and adhere to this External Workplace Investigations Protocol. An investigation will commence on a date agreed between the Framework Client and Framework Member.

The dates on which meetings are convened and the order within which meetings are scheduled, rests with the investigation team but the sequencing of interviewing a complainants, complainant's witnesses, respondent, respondent's witnesses should be followed.

The investigation will cover the specific complaint/s made against the named respondent/s and will also address any further information/evidence which arises during the course of the investigation but only in respect of the complaint.

A recording secretary shall accompany the investigation team at all investigation meetings.

### **Interviewing a complainant**

- Interview complainant
- Advise that the investigation will be conducted with due regard to confidentiality.
- Where parties to the investigation are being interviewed, their representative may accompany them at all meetings with the investigation team.
- Ask complainant to identify the name/s and contact details of any witness who has relevant information in relation to their specific complaint/s.
- Forward minutes of the investigation interview to complainant and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigation team.
- Forward the final minute of the meeting to the complainant, setting out the basis on which any amendments proposed were rejected.

### **Interviewing a complainant's witness:**

- Invite the nominated witness to a meeting
- Advise the witness that s/he is entitled to be represented at the investigation interview/s by a work colleague or trade union representative but it would not be appropriate for such an accompanying person to be a party to the investigation or another witness who will also be interviewed or making a statement during the course of the investigation.
- At the meeting, inform the witness that:
  - (i) The investigation will be conducted with due regard to confidentiality
  - (ii) A copy of his/her statement will be furnished to the parties to the complaint.
  - (iii) That s/he should not discuss the details of the complaint investigation or other related matters to the complaint with any other party.

- In setting the background to the complaint, witnesses should only be given sufficient information to allow the investigating team determine what occurred in relation to the allegation.
- Witnesses should be asked:
  - (i) What precisely occurred?
  - (ii) Who was involved?
  - (iii) When the incident/s occurred?
  - (iv) Where the incident/s occurred?
  - (v) Whether there were any other witnesses to the event/s?
- Forward minute of the investigation interview to the witness and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigation team.
- Forward, to the witness, the final minutes of the witness' interview, setting out the basis on which any amendments proposed were rejected.
- Witness Conflicting Accounts: Where the investigation team is faced with two conflicting accounts of the alleged incident and where no witnesses are available or where their evidence is not persuasive, the case rests upon which version of events the investigation team considers the more credible. In such instances a rationale must be provided.
- Should the investigation team become aware that any attempt has been made to persuade any witness to change his/her testimony, the matter should be reported immediately to the Contracting Authority. Any such interference is regarded as a serious breach of discipline and will be subject to disciplinary action.

#### **Interviewing a respondent:**

- Interview respondent
- Advise that the investigation will be conducted with due regard to confidentiality
- Where parties to the investigation are being interviewed, their representative may accompany them at all meetings with the investigation team.
- Ask respondent to identify the name/s and contact details of any witness who has relevant information in relation to their specific complaint/s.
- Forward minute of the investigation interview to respondent and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigation team.
- Forward the final minute of the meeting to the respondent, setting out the basis on which any amendments proposed were rejected.

#### **Interviewing a respondent's witness:**

- Invite the nominated witness to a meeting
- Advise the witness that s/he is entitled to be represented at the investigation interview/s by a work colleague or trade union representative but it would not be appropriate for such an accompanying person to be a party to the investigation or another witness who will also be interviewed or making a statement during the course of the investigation.
- At the meeting, inform the witness that:
  - (i) The investigation will be conducted with due regard to confidentiality
  - (ii) A copy of his/her statement will be furnished to the parties to the complaint.
  - (iii) That s/he should not discuss the details of the complaint investigation or other related matters to the complaint with any other party.
- In setting the background to the complaint, witnesses should only be given sufficient information to allow the investigating team determine what occurred in relation to the allegation.
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  - (v) Whether there were any other witnesses to the event/s?
- Forward minute of the investigation interview to the witness and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute.
- The acceptance of any proposed amendments is a matter for the investigation team.
- Forward, to the witness, the final minute of the witness' interview, setting out the basis on which any amendments proposed were rejected.
- Witness Conflicting Accounts: Where the investigation team is faced with two conflicting accounts of the alleged incident and where no witnesses are available or where their evidence is not persuasive, the case rests upon which version of events the investigator considers the more credible but a rationale must be provided.
- Should the investigation team become aware that any attempt has been made to persuade any witness to change his/her testimony, the matter should be reported immediately to the Contracting Authority. Any such interference is regarded as a serious breach of discipline and will be subject to disciplinary action.

**Further Action:**

- Only documentation and statements gathered during the course of the investigation which are relevant to the complaint shall be taken into consideration.
- On completion of all interviews, each party to the complaint will be provided with a copy of the minutes of all interviews conducted (including interviews with witnesses).
- As appropriate to determining the facts of the allegation, the investigation team may need to interview other persons named in statements referenced during the course of investigation meetings or indeed re-

interview anyone previously interviewed (over the course of investigation meeting/s) with a view to determining a finding on the validity or not, of any allegation.

- If deemed appropriate by the investigation team, meet the complainant in relation to matters arising which require further clarification.
- If deemed appropriate by the investigation team, meet the respondent in relation to matters arising which require further clarification
- If, during the course of the investigation, the investigation team is presented with additional matters relating to the original complaint, the investigation team should notify the parties to the complaint of any such information or evidence and provide an opportunity for the parties to the complaint to respond. No new complaints may be entered into this investigation.
- It is essential that detailed accurate minutes are taken at all investigation interviews conducted over the course of the investigation.
- Prepare final investigation report.

### **Final Investigation Report**

- Once the investigator has gathered all foreseeable relevant information that is available, analysis leading to conclusions must be performed.
- The investigator should assess the credibility of each party and witness, and determine what is more likely to have occurred.

On the findings of fact, the investigator should then determine whether what has happened constitute violations of applicable legislation and/or organisational policy.

- If wrongdoing is found to have occurred, the investigator should make recommendations on the appropriate management response. The report to management, i.e. the client, can then be prepared.
- Investigation reports must include, but is not limited to the following information, as appropriate to the specific circumstances:
  - Legal and policy basis of the investigation, as well as applicable professional standards;
  - Description of the investigator's engagement and background of the complaint;
  - Statement of independence of the investigator;
  - Summary of complainant's allegations;
  - Summary of respondent's response to allegations;
  - Listing of information gathered, including interviews held and documentation reviewed;
  - If any witnesses or leads provided by the parties were not interviewed/pursued, an explanation why not;
  - Assessment of credibility for each party and witness;
  - Investigator's findings of fact;

- Investigators rationale in respect of each element of the complaint and determine whether each element of the complaint is upheld, not upheld or ruled out.
  - Investigator's determination of whether wrongdoing has occurred;
  - Investigator's recommendations to management;
  - Other relevant information.
- The time limits advised with respect to the 90 working days may be extended only in very extenuating circumstances subject to the discretion of the Contracting Authority.
  - It will be the responsibility of the Contracting Authority to forward on copies of the final investigation report to the parties to the complaint.