



Dignity at Work

Policy & Procedures

Revision History

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Table of contents

Revision History.....	1
1. Purpose and Principles	3
2. Equality, Human Rights and Diversity.....	3
3. Bullying, Harassment and Sexual Harassment.....	4
4. Prevention	4
4.1 Role of Managers	5
4.2 Role of Employees.....	5
5. Prevention Policy	5
6. Resolution Procedure	6
6.1 Contact Person	6
6.2 Informal Procedure.....	7
6.3 Formal Procedure	9
6.4 Investigation Procedure.....	10
6.5 Investigation Outcomes	11
6.6 Appeal	12
7. Victimisation.....	12
8. Third Party Bullying.....	12
9. Responsibilities	13
10. Review of Policy	13
11. References	13

1. Purpose and Principles

The Arts Council recognises the right of all employees to be treated fairly and with dignity and respect. The Arts Council is committed to ensuring that all employees are treated equally and provided with a safe working environment which is free from all forms of bullying, harassment and sexual harassment.

2. Equality, Human Rights and Diversity

As an equal opportunities employer, and in line with existing [Employment Equality legislation](#), the Arts Council does not discriminate against employees, applicants or potential applicants due to their age, disability, gender, sexual orientation, civil status, family status, membership of the travelling community, race¹ (colour, nationality or ethnic or national origins), religious beliefs or disadvantaged socio economic background.

All employees have an important role to play in ensuring equality of opportunity throughout the organisation. All employees are required to co-operate with any measures introduced by the Arts Council to promote equal opportunities and must not themselves, either directly or indirectly, discriminate, harass or intimidate fellow employees in any way.

All employees will be treated equally in relation to

- Recruitment and Selection
- Training, including vocational training
- Promotion
- Pay and Employee Benefits
- Employee Grievances and Discipline Procedures
- Terms and conditions of employment

Employees will not discriminate against employees or prospective employees in relation to

- access to employment
- conditions of employment
- promotion or re-grading

¹ The Employment Equality Act Section 6 (2) (h) that they are of different race, color, nationality or ethnic or national origins (in this Act referred to as “the ground of race”)

- classification of posts
- training or experience for or in relation to employment

3. Bullying, Harassment and Sexual Harassment

This policy is aimed at preventing bullying, harassment and sexual harassment in the workplace. This policy extends to behaviour which occurs away from the Arts Council's premises, such as at work related social functions or training events, provided there is a connection with the work of the Arts Council and its employees.

All employees have the right to be treated with dignity and respect at work. The Arts Council has zero tolerance to bullying, harassment and sexual harassment which can have a devastating effect on the health, confidence, morale and performance of those subjected to it. Bullying, harassment and sexual harassment may also have a damaging impact on employees not directly subjected to inappropriate behaviour but who witness it or have knowledge of it.

Bullying (as defined in Appendix 1) is legally distinct from harassment as the alleged bullying behaviour does not have to relate to one of the nine discriminatory grounds specified in the Equality Acts.

Harassment (as defined in defined in Appendix 1) is governed by the [Employment Equality Acts 1998-2015](#) ("the Equality Acts") and relates to one of the nine discriminatory grounds specified within the Equality Acts.

Under the [Safety, Health and Welfare at Work Act 2005-2014](#) ("the 2005 Act") and in line with the HSA and Work Place Relations Commission's Code of Practice 2021, employers have a duty to prevent any improper conduct or behaviour which is likely to put the health and safety of employees at risk.

4. Prevention

Role of the Arts Council

The Arts Council has a duty to manage and conduct work activities in such a way as to prevent any improper conduct or behaviour likely to put at risk an employee's safety, health or welfare at work.

The Arts Council has prepared a **Safety Statement** under **section 20** of the **2005 Act**, based on an identification of the hazards to safety, health and welfare at the place of work, an assessment of the risks involved and has set down the preventive measures necessary to protect safety, health and welfare. Risk is the likelihood of a hazard causing harm and the extent of that harm. The Arts

Council considers bullying, harassment and sexual harassment in the work place as likely hazards and therefore has put preventive measures in place.

4.1 Role of Managers

All Managers have a particular responsibility to implement this policy and to make every effort to ensure that bullying, harassment or sexual harassment does not occur, particularly in work areas for which they are responsible. All Managers have an obligation to deal promptly and effectively with any incidents of bullying, harassment or sexual harassment of which they are aware or ought to be aware.

4.2 Role of Employees

Employees both individually and within teams and groups, have a role in promoting positive behaviour to others, relating in clear, civil and respectful ways to everybody in the workplace.

Each employee should create a co-operative relational environment within the workplace by their own behaviour. How they behave, and how that behaviour is responded to, feeds into a broader sense of what is acceptable.

All employees have a right to be treated with dignity and respect at work and not to have their safety, health or welfare put at risk through bullying, harassment or sexual harassment by the employer, by other employees or other persons they engage with in the course of their work.

Employees also have a duty to behave and conduct themselves in such a way as to respect the right of others to dignity, courtesy and respect at work and the right of others not to be placed at risk as regards to their safety, health and welfare from bullying, harassment or sexual harassment at work.

Employees have a right to complain if they feel they have been bullied, harassed or sexually harassed and will not be victimised or penalised for so doing.

Employees are required to cooperate by providing any relevant information when an allegation or complaint made under this policy is being investigated, whether at a formal or informal stage.

5. Prevention Policy

The Arts Council has put in place this Dignity at Work policy and will ensure:

- appropriate training and development is provided to employees at all levels
- employees have access to relevant internal and external support structures, such as the Employee Assistant Service programme, mediation and HR support
- clarity on the individual's role and responsibilities/role profile

- a working environment that provides a high quality service in an atmosphere of respect, collaboration, openness, safety and equality.
- that any employee making a complaint under this policy will be treated with fairness, sensitivity, respect and will not be penalised or victimised for doing so
- that confidentiality for all parties concerned will be maintained in so far as is practicable and having regard to the rights of the person complained of to due process and fair procedures
- that the person who is alleged to be the bully or harasser is treated with fairness, sensitivity and respect and is given a full opportunity to respond to the allegation(s) made against them
- that bullying, harassment or sexual harassment at work by management, by employees and by non-employees, such as clients, board members, sub-contractors and members of the public, will not be tolerated and could lead to disciplinary procedures being applied
- that a complaint of bullying, harassment or sexual harassment which, following investigation, is found to be vexatious will be dealt with through the [disciplinary procedure](#)
- that human resource management policies and practices will strive to prevent bullying, harassment and sexual harassment at work
- that this policy will be updated to reflect internal and/or external factors where relevant

6. Resolution Procedure

There are both informal and formal procedures to deal with the issue of bullying, harassment and sexual harassment at work. While the Arts Council would be hopeful that issues could be addressed through the informal procedure in the first instance, it is acknowledged that this is not always suitable. Therefore there is no requirement to exhaust the informal procedure before progressing an issue or complaint through the formal process.

As a first point of contact, an employee who feels they are or have been bullied, harassed or sexually harassed should contact their line manager, Contact Person or any other Manager who can discuss this issue with them and explain the resolution processes.

6.1 Contact Person

An employee who feels that they are being bullied or harassed may wish to avail of the support of a Contact Person whose function is to listen, be supportive and outline the options open to the employee. Details of Contact Persons are displayed on employees' notice boards or can be obtained from the Human Resources Department. The Contact Person will explain the definitions of bullying/harassment and the various elements of the procedure to assist the employee to make an informed choice about what action, if any, they may wish to take. The Contact Person cannot act as an advocate or representative for the employee and may not approach the alleged perpetrator on their behalf.

6.2 Informal Procedure

It is preferable for all concerned that complaints are dealt with and resolved informally, whenever possible. This is likely to produce solutions which are speedy, effective and minimise embarrassment and the risk of breaching confidentiality, while also protecting the working relationship. The aim of the informal approach is to stop the alleged bullying, harassment or sexual harassment with the minimum conflict and stress for the individuals concerned without recourse to any other action. Sometimes the person who is alleged to be engaging in the behaviour is genuinely unaware that the behaviour being complained of is disrespectful or unwelcome or undermining and/or causing distress.

The Informal Procedure may be engaged by either:

- Initial Informal Process
- Secondary Informal Process
- Mediation

Initial Informal Process

Where appropriate:

- in the first instance, the complainant should explain in person clearly to the person engaging in the unwanted behaviour that the behaviour is not welcome (only if the complainant feels comfortable in doing so);
- if it is more suitable, the individual who perceives that they are the recipient of unacceptable behaviour should put their concerns in writing, again focusing on the offending acts and their effects on them;
- Where the concern relates to an immediate manager, it should be discussed informally with a person at the next level of management;
- the complainant may wish to avail of the support of a Contact Person, where applicable, for guidance and to obtain a copy of this policy.

Secondary Informal Process

Where the employee is not confident about approaching the alleged perpetrator or where the Initial Informal Process has not resolved the matter, the employee should request the intervention of a nominated person. This person will not be the Contact Person. A nominated person (manager), who is familiar with the procedures and has had adequate training will be nominated to deal with the complaint.

The nominated person will establish the facts, context and next course of action. If the complaint concerns alleged bullying and includes concrete examples of inappropriate behaviour then the person complained against will be presented with the complaint and asked for their response to it. A process will be agreed to bring the issue to resolution and the nominated person will implement the suggested steps and monitor the situation. If the behaviour complained about does not concern alleged bullying as defined, an alternative approach may be put in place and a rationale recorded. If there are no concrete examples given, it must be deemed that there is no complaint to be answered by the person complained about as they have no recourse to repudiating an accusation that doesn't give any specifics.

The informal process provides options for resolving complaints and may include the monitoring of the situation by a more senior manager or by mediation, where appropriate, and where both parties agree. Where applicable, line managers shall be kept informed about the process in train.

Where a complaint is deemed to be vexatious, following investigation, the matter will be progressed through the [disciplinary procedures](#).

The nominated person responsible for managing the complaint shall keep a nominal record of all stages; including the complaint, the informal meetings and action agreed. The purpose of such records, which do not include the detail of discussions, is to provide evidence of the complaint having been met with an organisational response and attempt at resolution.

It may not always be practical to use the informal procedure to resolve an issue or where the informal process has failed to resolve an issue, the Formal Procedure set out in this policy should be followed. Employees should be aware that if an allegation is deemed sufficiently serious, it may be necessary to commence an investigation even if an employee is not prepared to proceed with a formal complaint.

Mediation

If the Initial and/or Secondary Informal Process does not achieve resolution, the Arts Council may consider whether the matter should be referred to mediation. Mediation requires the voluntary participation and co-operation of both parties in order to work effectively. Where appropriate, both parties will be requested to consider the use of mediation and every effort will be made to secure their agreement. An appropriate person who is experienced or well versed in mediation will meet with each of the parties separately to explain the mediation process and its benefits. A mediated agreement seeks to reach an accommodation between the parties and thereby restore harmonious working relations. Minimal paperwork and/or records will be generated by this process. If the mediation process does not produce a satisfactory outcome, the complainant may seek to have the matter resolved through the Formal Procedure. Any new information that emerges during the course of the

mediation process remains strictly confidential and cannot be disclosed as part of the Formal Procedure. Mediation may be attempted at any/all points in the procedure to try to resolve the matter. Mediation may be attempted again during the Formal Procedure or following the outcome of the formal investigation.

6.3 Formal Procedure

Prior to invoking the Formal Procedure, all informal resolution avenues should be contemplated and where possible, exhausted before a formal process is invoked. In order to make a formal complaint an initial approach may be made to your line manager regarding the issue, or if your line manager is a party to the complaint then the next level of management or the HR Director. Although the initial complaint may be provided verbally, it is a requirement that the formal complaint is lodged in writing, signed and dated to ensure that a fair process may be followed. Where this is not possible, a written record may be taken of the formal complaint by your designated manager or next level of management which you will need to sign and date accordingly.

The complaint should be confined to the precise details of the alleged incidents of bullying and include the following information:

- the name of the person(s) complained of (alleged bully or harasser)
- the nature of the offending behaviour/ conduct complained of, giving examples
- dates/times and locations of where and when the alleged offending behaviour/ conduct occurred
- names of witnesses to any alleged incidents
- details of any action already taken in an attempt to resolve the issue(s)
- confirmation that you consent to your identity and the facts of the allegation being disclosed to the alleged bully/harasser. This is required in order to allow the Arts Council to properly address/ investigate the allegation under this policy.

If the behaviour complained of does not concern bullying, harassment and sexual harassment as defined, an alternative approach/ procedure may be used and a rationale recorded.

If there are no concrete examples given, it may be deemed that there is no complaint to be answered by the person(s) complained of as they have no recourse to repudiating an accusation that does not provide specific details.

Where an allegation of bullying, harassment or sexual harassment is made under this **Dignity at Work Policy**, the person(s) complained of will be notified in writing that a complaint has been made against him/her, and provided with a copy of the complaint in full, together with any relevant

documents and a copy of this policy. The Arts Council in progressing the complaint, may seek to ascertain whether a full and confidential investigation is the only way forward or, whether some other method might be recommended prior to initiating a full investigation of the complaint. An appropriate course of action at this stage, for example, could be exploring a mediation solution or a view that the issue can be resolved informally. Should these processes be deemed inappropriate or inconclusive, a formal investigation of the complaint will take place in accordance with the Investigation Procedure. In all cases there will be no inference of guilt against the person(s) complained of, and they will be afforded a fair opportunity to respond to the allegation(s) made against them.

All individuals involved in an investigation under this policy are required to respect the need for confidentiality – failure to do so may be considered a serious disciplinary offence and result in the disciplinary procedure being applied. Confidentiality is assured in so far as it is reasonably practicable.

Where deemed appropriate, either or both parties may be suspended with pay, without any negative inference, pending the outcome of an investigation. However, where this is not possible, the parties to the complaint will be expected to maintain a positive working relationship.

6.4 Investigation Procedure

An investigation into an allegation of bullying, harassment or sexual harassment will be conducted in line with this policy.

The purpose of the investigation will generally be to establish whether or not the behaviours complained of occurred. Evidence and witness statements may be relied on for this purpose.

The investigation will be conducted by an independent member of Management or a suitably skilled external third party (where appropriate). The investigation will be conducted thoroughly, objectively and with sensitivity. Utmost confidentiality will be protected in so far as it is reasonably practicable.

Once appointed, the investigator will agree Terms of Reference which shall govern the formal investigation between the parties and indicate a timeframe for the resolution of the complaint to both parties. This timeframe may be extended, where necessary, and both parties will be notified of any such extension.

Due respect will be had for the rights of the complainant, the person(s) complained of and any witnesses involved in the process.

The following process will be undertaken:

- the investigator(s) will meet with the complainant, the person complained of and any witnesses or relevant person/s on an individual confidential basis with a view to establishing the facts
- as many interviews as are necessary will be conducted until the investigator(s) is satisfied that all evidence has been collected and all parties have had a fair opportunity to state their case
- statements from the complainant, the person(s) complained of and any witnesses will be recorded in writing
- all parties required to attend investigation meetings are entitled to be accompanied by a work colleague or union representative if desired. As this is not a legal process, legal representation is not normally permitted at investigation meetings. It will be a matter for the investigator to determine in their sole discretion whether or not there are exceptional circumstances whereby a request by the respondent to have legal representation will be permitted.
- Every effort will be made to carry out and complete the investigation as quickly as possible within an agreed timeframe
- on completion of the investigation, the investigator(s) will submit a written report to the relevant manager, containing the findings of the investigation
- the complainant and the person(s) complained of will be informed in writing of the findings of the investigation, i.e. whether the behaviour(s) complained about, on the balance of probabilities, have occurred or whether the complaint is deemed to be malicious or vexatious.

If the investigator concludes that the accused employee has a case to answer, on the balance of probability, then the investigator may recommend whether or not the Arts Council should invoke the Disciplinary Procedure.

- both parties will be given the opportunity to comment on the findings before any action is decided upon by Management.

6.5 Investigation Outcomes

Where a complaint is upheld, both parties will be informed of this outcome, and the relevant level of Management will also be advised.

Management will take appropriate action based on the outcome of the investigation. This may include formal disciplinary action in line with the Arts Council disciplinary procedure, or training, or another appropriate intervention deemed necessary to prevent a recurrence of the behaviour.

Prior to any disciplinary action being taken, a fair disciplinary hearing will be held in line with the Arts Council's disciplinary procedure. It is important that Employees are aware, in line with our [Code of Conduct](#) that certain acts of bullying, harassment or sexual harassment may be deemed to be gross misconduct and may result in sanctions up to and including dismissal.

Where a complaint is found by the investigator(s) to be inconclusive, and therefore not upheld, there will be no negative inference against any party to the complaint.

All parties to the complaint will be expected to continue working as normal, and to conduct themselves in an appropriate manner at work.

Where it is found that the complaint was malicious or vexatious, then a disciplinary hearing will be held with the complainant to explore this further. Lodging a malicious or vexatious complaint is a serious disciplinary offence, and, depending on the seriousness of the issue, may be deemed gross misconduct and could result in a disciplinary sanction up to and including dismissal.

In all cases, whether the complaint is upheld or otherwise, the workplace will be monitored to ensure that the parties to the complaint conduct themselves in an appropriate manner and do not engage in any improper conduct. Appropriate support will be made available to both parties. Required action will be taken to eliminate the risk of that behaviour recurring or continuing and records will be kept of interventions used for this purpose.

6.6 Appeal

Either party may appeal the decision, within five working days of receiving the decision, outlining in writing, the reasons for the appeal. Such appeals will be heard by a Manager not previously involved in the investigation and independent advice and support may be sought if required. The appeal is not a re-hearing of the original complaint, rather, it will focus on the conduct of the investigation in terms of fair process and adherence to procedure. The nominated Manager or appointed independent third party will either dismiss the appeal, in which case the investigation report will stand or uphold the appeal, in which case a new investigator will be appointed and the complaint will be investigated *ab initio* under the Formal Procedure.

7. Victimisation

No person engaging in the procedures outlined here will be subject to unfavourable treatment for their role in the process, whether they are making a complaint in good faith, supporting a complainant, giving evidence in the proceedings or giving notice of intention to do any of the foregoing. Retaliation taken against an employee for making a bullying/harassment/sexual harassment complaint or against a witness is considered a disciplinary offence.

8. Third Party Bullying

The procedures outlined in this policy also apply to allegations of bullying, harassment or sexual harassment by a third party. Sanctions which may ultimately be imposed on a third party include

exclusion from the premises, termination of a contract, or other measures to prevent the recurrence of the inappropriate behaviour.

9. Responsibilities

All Management will endeavour to ensure that this policy is communicated to all employees and will ensure that the policy is maintained and updated in line with legislative changes and any amendments to the relevant Codes of Practice. Management will act appropriately and in line with this policy in order to eliminate workplace bullying, harassment or sexual harassment.

All Management have a particular responsibility to prevent workplace bullying, harassment and sexual harassment and are expected to lead by example, promote awareness of this policy, be vigilant for signs of bullying, harassment or sexual harassment, tackle problems before they escalate, deal sensitively with individuals involved in a complaint and monitor the situation in the workplace so that bullying, harassment or sexual harassment does not occur or reoccur.

Employees are expected to comply with this policy and to raise issues of concern through the procedures outlined in the policy.

10. Review of Policy

The Arts Council reserves the right to review the Dignity at Work policy at any time to ensure it is in line with any new or revised employment practices, regulations, guidance and in light of the experience of the policy in practice. Any proposed changes connected with a review will be communicated in advance with employees during a period of engagement to discuss the proposed changes.

11. References

Employment Equality Act 1998 and 2015

Safety, Health and Welfare at Work Act 2005

Health & Safety Authority, www.hsa.ie

Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work

Appendix 1

Definitions

Bullying at work has been defined as “*repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual’s right to dignity at work*”.

What Bullying is not?

- An isolated incident of the behaviour described within the above definition of bullying may be an affront to dignity at work, but, as a once-off incident, is not considered to be bullying.
- Objective criticism and corrections that are intended to provide constructive feedback
- Expressing differences of opinion strongly.
- Ordinary performance management.
- Reasonable and essential discipline arising from the good management of the performance of an employee at work.
- Actions taken which can be justified as regards the safety, health and welfare of the employees.
- Legitimate management responses to crisis situations which require immediate action.
- Complaints relating to instructions issued by a manager, assignment of duties, terms and conditions of employment or other matters which are appropriate for referral under the normal grievance procedure, assignment of duties, terms and conditions of employment or other matters which are appropriate for referral under the normal grievance procedure.
- Workplace conflict where people disagree with or disregard the other person's point of view.

This list is not exhaustive.

Bullying puts at risk the safety, health and welfare of people at work. A pattern of the following behaviours are examples of types of bullying.

- Exclusion with negative consequences
- Verbal abuse/insults
- Being treated less favourably than colleagues
- Belittling a person's opinion
- Disseminating malicious rumours, gossip or innuendo
- Socially excluding or isolating a person within the work sphere
- Intrusion – pestering, spying or stalking
- Intimidation/aggressive interactions
- Excessive monitoring of work

- Withholding information necessary for proper performance of a person's job
- Repeatedly manipulating a person's job content and targets
- Blaming a person for things beyond their control
- Use of aggressive and obscene language
- Other menacing behaviour.

Bullying at work can involve people in many different work situations and at all levels:

- Manager to employee
- employee to manager
- one employee to another (or group to group)
- client or service provider to employee/manager
- employee/ manager to client or service provider.

Note, this policy does not apply to complaints of bullying made by employees against children associated with the Arts Council. Such complaints will be treated in accordance with the Arts Council's Child Protection and Welfare Policy.

Bullying can be carried out by internal and external stakeholders such as board members, managers, colleagues, service provider, suppliers, or members of the public and can take place at any location where the individual is working on behalf of the Arts Council for example, at the office in 70 Merrion Square, Dublin 2, at home (if home working), online (cyber bullying) and at external meetings, social settings and events.

Harassment (other than sexual harassment) is defined as any unwanted conduct that has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person and which relates to one of the following nine protected grounds (as specified in the Equality Acts): gender, civil status, family status, sexual orientation, religious belief, age, disability, race, or membership of the traveller community.

The unwanted conduct may consist of acts, requests, spoken words, gestures, or the production, display or circulation of written words, pictures or other material. Inappropriate behaviour that is not linked to one of the nine grounds above is not covered by this definition.

Examples of harassment include:

- verbal harassment including jokes, derogatory comments etc.
- written harassment including emails, text messages, notices etc.
- physical harassment including shoving or jostling.
- intimidatory harassment including gesturers or threatening poses.
- persistent negative body language.

An act of harassment may occur outside of the work premises or normal working hours provided that the perpetrator was acting in the course of employment, for example, at a training course, conference or work related social event.

Sexual harassment is any form of verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. This includes same-sex sexual harassment. The unwanted conduct may consist of acts, requests, spoken words, gestures, or the production, display or circulation of written words, pictures or other material.

Sexual harassment may consist of one single incident or repeated inappropriate behaviour.

Examples of sexual harassment include:

- sexual gestures
- unwelcome sexual advances
- offering employment benefits in exchange for sexual favours
- displaying sexually suggestive objectives, pictures, calendars
- sending suggestive and pornographic correspondence, including e-mails or text messages
- unwelcome verbal conduct such as sexual comments and jokes
- unwelcome physical conduct, such as pinching, unnecessary touching, etc.
- unwanted or derogatory comments about dress or appearance.

An act of sexual harassment may occur outside of the work premises or normal working hours provided that the perpetrator was acting in the course of employment, for example, at a training course, conference or work related social event.

The examples stated in this policy are not an exhaustive list and the Arts Council reserves the right to take action against these and other inappropriate behaviours.