

St Dymphna's School
Dignity at Work Policy

This policy also incorporates anti- bullying procedures, Grievance procedures and Staff Relations

Introduction

A core employment value is the commitment to ensuring that each individual is guaranteed a working environment where he/she may be expected to be treated with dignity by management and work colleagues. Our school is committed to maintain a positive work environment where work is done in an atmosphere of respect, collaboration, openness and equality.

There is a responsibility on all employees to be aware of this policy and to promote a working environment free of threat, harassment, bullying and intimidation. It is important to distinguish harassment, including sexual harassment, from normal social interaction at work involving mutually acceptable behaviour.

This policy applies to harassment, bullying not only by staff but also by any person with whom an employee might reasonably expect to come in contact in the course of his/her school activities including visitors to the school, parents, guardians, and pupils.

This policy further aims to raise awareness among staff about the importance of fostering positive working relations with one's colleagues and to give practical guidance to employers and employees on:

- What is meant by workplace bullying, harassment, and sexual harassment
- How workplace bullying, harassment and sexual harassment may be prevented
- What steps to take to ensure that adequate procedures are readily available to deal with bullying, harassment, and sexual harassment and to prevent any recurrence.

This policy aims to ensure that the Board of Management of St. Dymphna's Special School and employees are compliant with current legislation in relation to the Health & Safety Act 2005 and the Code of Practice on the Prevention of Workplace Bullying (May 2007) and the Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work 23/12/2020* (Which for the purpose of this document will be referred to as The Code.)

The WRC Code of Practice for Employers on the Right to Disconnect 2021

NOTE: The Board of Management and staff of St Dymphna's Special School recognise the differences between

- 1) Staff Relations Difficulties,
- 2) Workplace Grievances and
- 3) Harassment/Anti-bullying in the workplace and the procedures by which these are dealt with are covered in this Dignity at Work Policy.

This policy is supported by the school's Health and Safety Policy, Data Protection Policy, Supervision Policy and other relevant school policies. The policy is formulated in light of the

Labour Relations Commission's Codes of Practice S.I. No.17/2002 and S.I. 208/2012 for addressing bullying in the workplace and harassment/sexual harassment respectively, together with the Health & Safety Authority Code of Practice (2007) on the prevention and resolution of bullying at work.

This policy is in line with procedures as recommended within the Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work Code (The Code) 23/12/2020* and the document 'Working Together- Procedures and Policies for Positive Staff Relations', agreed between the partners in Education. The policy also takes note of DES Circular 0049/2018 which outlines disciplinary procedures for all teachers in relation to work and conduct and Circular and Circular 0044/2019 on the employment of teachers.

Effective from 23/12/2020, the new Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work (SI No. 674/2020 "the Code") provides employers with fresh legal direction on what constitutes workplace bullying and what employers are expected to do when presented with allegations of bullying.

1. The Code replaces two earlier codes previously issued by the Labour Relations Commission (now the Workplace Relations Commission) and the Health and Safety Authority, so the Code is the most up to date position on how to deal with allegations of workplace bullying.
2. Failure to follow the Code is not an offence in itself (i.e., an employee cannot bring a legal action against an employer solely on the basis that the employer did not follow the Code) but the Code is admissible in any legal proceedings. Therefore, lack of adherence to the Code is likely to impede employers defending constructive dismissal, personal injury or other claims arising from workplace bullying.
3. One of the key aspects of the Code is that it confirms the already established definition of bullying 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 be reasonably regarded as undermining the individual's right to dignity at work", and provides some examples of bullying behaviour. Helpfully, it also confirms that disrespectful behaviour does not of itself constitute bullying and provides a non-exhaustive list of other behaviours which can often create tension in a workplace but are not considered to be bullying. These include:

- Ordinary performance management
- Constructive feedback / advice about work which is not welcomed by the recipient
- Expressing a difference of opinion strongly
- Reasonable corrective or management type actions
- Workplace conflict arising from a disagreement between colleagues

https://www.lawsociety.ie/globalassets/documents/wellbeing/code_of_practice_foremployers_and_employees_onthe_prevention_and_resolution_ofbullying_at_work.pdf

Aims

Adult bullying and harassment will not be tolerated in St Dymphna's Special School. We thrive in an atmosphere where employees have the right to be treated with dignity and respect.

The Board of Management is committed to intervening in an appropriate manner - utilising the accepted Management/INTO procedures - to investigate and deal with allegations of bullying

or harassment. The provisions of DES Circulars 61/2017 and 62/2017 and The Code, with respect to the assault of staff will apply, as appropriate.

We accept that every member of staff has a right to work in an environment free of any form of bullying, harassment, or sexual harassment. Such behaviour(s) are totally unacceptable. Aside from the impact upon the individual and colleagues, these behaviour(s) can harm working relationships, undermine morale, and damage efficiency across the workplace.

Each individual has a responsibility to ensure that his/her behaviour reflects a culture of dignity and respect. All complaints or queries raised in relation to bullying, harassment and sexual harassment will be treated seriously, fairly, and in the strictest of confidence. Complaints will be progressed promptly, and the cooperation of all parties involved in a dispute must be provided in progressing the matter in accordance with the processes set out.

A key aim of this policy is to provide awareness regarding the steps which individuals may take if they believe that they have been bullied, harassed, or sexually harassed. This document outlines the recommended procedures which should be followed by all parties to complaints regarding bullying, harassment, and sexual harassment.

It is also the intention of the Board of Management under this policy, to encourage the use of informal resolution methods and the use of mediation as often and as early as possible during disputes. Complaints should only proceed to formal investigation once efforts to utilise local resolution methods or mediation have been exhausted or are considered to be unsuitable due to the nature of the complaint.

It is important that complaints which are made under this policy are genuine and not vexatious in nature. Such behaviour undermines genuine complaints made by colleagues, may cause stress, and upset to those wrongly accused, and can waste the time of those working to investigate the complaint. Malicious or vexatious complaints are viewed as misconduct and may be subject to disciplinary procedures.

Finally, dealing with issues regarding bullying, harassment, or sexual harassment can be stressful and distressing for all parties concerned. A significant amount of advice and support may be sought by those concerned.

The key aims of this policy are therefore to:

- Achieve and maintain a work environment where dignity and respect are to the forefront of our values
- Create an environment where bullying, harassment, and sexual harassment are not tolerated in any form
- Ensure that each individual is aware of his/her responsibility to behave in a way that reflects a culture of dignity and respect

Good Practice

The Board of Management recognises the importance of promoting positive harmonious relationships within the school community by ensuring that all people, both adults and pupils, are treated with dignity and respect.

The BoM further endorses the Dignity in the Workplace Charter issued by the Health and Safety Authority.

The charter states:

We commit ourselves to working together to maintain a workplace environment that encourages and supports the right to dignity at work.

All who work here are expected to respect the right of each individual to dignity in their working life.

All will be treated equally and respected for their individuality and diversity.

Bullying in any form is not accepted by us and will not be tolerated.

Our policies and procedures will underpin the principles and objectives of this Charter.

We will adopt this charter to make this school a good place to work.

A good place to work has a positive work environment characterised by:

- A supportive atmosphere
- Good and open communication (e.g., through opportunities at regular staff meetings. Informal meetings.)
- Appropriate interpersonal behaviour
- Collaboration
- Open discussion and resolution of conflict
- Recognition, feedback and affirmation as appropriate

To this end, the Board of Management and the staff will ensure that:

- Fair treatment of all staff (including fair systems of selection and promotion in line with agreed procedures) will be a priority. (See Circular 0044/2019 and Governance Manual for Primary Schools 2019-2023. Governance Manual for Primary Schools 2023-2027)
- Regular, transparent, open and direct communication and opportunities for debate are encouraged through staff meetings, In School Management meetings etc.,

- Collaborative decision making and constructive discussion based on consultation within the school community is fostered.
- The different roles performed in the school by each member of staff (teaching and non-teaching) are acknowledged and affirmed.
- The entitlement of each member of staff to be treated with respect and dignity is recognised.
- An awareness of the importance of demonstrating a sense of fair play, tolerance and goodwill is created.
- It is recognised that there are certain behaviours which are not acceptable among staff members, and which create negative staff relations.
- It is recognised that it is critical to resolve conflict at the earliest opportunity before it is allowed to fester and result in inevitable conflict.
- All staff are aware of and have access to copies of school policies and procedures covering curricular and administrative areas.
- These policies are implemented fairly and consistently, and the Board of Management will ensure their implementation.

Every person within our school has a responsibility to play his/her part in contributing to a positive work environment.

Staff members share a collegiate responsibility, under the direction of the Principal, to act in preventing bullying/aggressive behaviour by any member of the school community. In this regard, a person who is a witness or bystander has a clear responsibility to raise concerns about dignity at work and threats to this, in an appropriate and timely manner.

The raising of concerns may be addressed initially with the people involved in an informal manner.

The Safety Statement - as mandated under the Safety, Health, and Welfare at Work Act 2005 – includes a commitment to a positive work environment, in light of the employer's obligations as outlined at Section 8 of that Act, including the duty to manage work activities in such a way as to prevent "*improper conduct or behaviour*" likely to put health and safety at risk.

What Is Workplace Bullying?

Adult Bullying is a workplace issue and a human relations issue.

"Workplace bullying is 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. An isolated incident of the behaviour described in this definition may be an affront to dignity at work but, as a once off incident, is

not considered to be bullying". (Health and Safety Authority, HSA Code of Practice for Employers and Employees for the Prevention and Resolution of Bullying at Work, 2007)

Bullying in any form is unacceptable. It is based on a person's standing within one of the nine categories (or grounds) specified in Employment Equality legislation¹, which outlines the illegality of discrimination on nine distinct grounds –

- Gender
- Civil status
- Family status
- Sexual orientation
- Religious belief
- Age
- Disability
- Race
- Membership of the travelling community.

Bullying behaviour includes psychological abuse which causes serious pain and suffering. Studies have shown that any person may become a target, irrespective of their personality or ability. In addition to its unacceptable effects on persons who are its targets, workplace bullying, and harassment is extremely detrimental to organisational effectiveness.

An isolated incident of the behaviour described in this definition may be an affront to an individual's dignity but, as a once-off incident, is not considered to be bullying.

Workplace bullying can take many different forms, which usually include:

Verbal:

Personal insults, demeaning remarks, regular humiliation often in front of others, nicknames, ridicule, threats;

Non-verbal or indirect: Exclusion with negative consequences, hostile attitude, spreading malicious rumours;

Abuse of power: Regular excessive and inappropriate criticism, deliberately and maliciously withholding work-related information in order to undermine a colleague, repeatedly manipulating a person's job content and targets without due cause;

Physical: Aggressive behaviour, physical intimidation, unwelcome physical contact up to and including assault;

Communications technology: Insulting texts, emails, derogatory comments on social media.
Other examples of bullying include:

- Purposely undermining someone;
- Targeting someone for special negative treatment;
- Manipulation of an individual 's reputation;
- Social exclusion or isolation;
- Intimidation;
- Aggressive or obscene language;
- Jokes that are obviously offensive to one individual by spoken word or email;
- Intrusion by pestering, spying, and stalking;
- Unreasonable assignments to duties which are obviously unfavorable to one individual;
- Repeated requests with impossible deadlines or impossible tasks.

Key factors of workplace bullying are that the behaviour is generally:

- Persistent
- Unwanted
- Subtle
- Non-physical

The exercise of legitimate management functions, in a reasonable and fair manner, does not constitute bullying and this view of the Board of Management is endorsed by the INTO.

An isolated incident of the behaviour described in this definition may be an affront to an individual's dignity but, as a once-off incident, is not considered to be bullying.

Previous research has grouped workplace bullying behaviours into the following types:

- Threats to personal standing: Name-calling, insults, intimidation and devaluing personal qualities of the target.
- Isolation: Preventing access to opportunities, physical or social isolation and withholding of information.

- Threats to professional status: Belittling opinion, public professional humiliation, and accusation regarding lack of effort.
- Overwork: Undue pressure, impossible deadlines, and unnecessary disruptions.
- Destabilisation: Failure to give credit when due, meaningless tasks, removal of responsibility, repeated reminders of blunders, and setting up to fail.

(Rayner & Höel, 1997)

Relational Bullying, in which the perpetrator damages the target's friendship network and indirect Bullying perpetrated by a third party, such as rumour spreading (Cowie, Naylor, Rivers, Smith & Pereira, 2002). Relational bullying and indirect bullying have in common the expression of social manipulation and can often go unnoticed by others.

Electronic forms of bullying (i.e., cyberbullying) have been included within the subtypes of bullying behaviours. Cyberbullying is defined as repeated and enduring negative behaviour that occurs via technology. Cyberbullying includes written - verbal acts (e.g., abusive emails), visual acts (e.g., posting an embarrassing video on a website), exclusion and impersonation (Vranjes, Baillien, Vandebosch, Erreygers & De Witte, 2018).

Harassment and Victimisation

Harassment in Ireland is legally distinct from bullying. Harassment is defined in relation to nine specific grounds outlined in the Employment Equality Acts (1998-2015; see Glossary of Terms) and the Equal Status Acts (2000-2015), whereas bullying spans a number of legislative areas including Labour Law and Health and Safety legislation, depending on the context and mechanisms used by respondents.

Harassment is "unwanted" conduct which "has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person" under nine discriminatory grounds: gender; civil status; family status; sexual orientation; religion; age; disability; race; or member of the Traveller community. Such conduct may consist of "acts, requests, spoken words, gestures or the production, display or circulation of written words pictures or other material". (Employment Equality Acts 1998-2015 sec. 14A; Equality Act 2004, sec. 8)

The nine discriminatory grounds are:

- Gender
- Civil status
- Family status
- Sexual orientation
- Religious belief

- Age
- Disability
- Race
- Membership of the Traveler community

Harassment may consist of a single incident, or repeated inappropriate behavior and is defined in Employment Equality legislation as any form of unwanted conduct related to any of the discriminatory grounds which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

Examples of Harassment (not exhaustive):

- Verbal harassment – jokes, comments, ridicule or songs
- Written harassment – including faxes, text messages, emails, notices or comments on social media
- Physical harassment – jostling, shoving or any form of assault
- Intimidatory harassment – gestures, posturing or threatening poses
- Visual displays such as posters, emblems or badges
- Isolation or exclusion from social activities

Victimisation

Victimisation occurs where “dismissal or other penalisation of the claimant was solely or mainly occasioned by the claimant having in good faith” done any of the following:

- A complaint of discrimination
- Any proceedings by a claimant
- An employee having represented or otherwise supported a claimant
- The work of an employee (a comparator) having been compared with the work of another employee
- An employee having been a witness under equality legislation
- An employee having opposed by lawful means an act which is unlawful under equality legislation

- An employee having given notice of an intention to do any of these things (Employment Equality Acts 1998-2015 sec. 14A; Equality Act 2004, sec. 8).

Unfair Dismissal

Under the Unfair Dismissals Acts 1977-2015, unfair dismissal can occur where:

- An employer terminates an employee's contract of employment (i.e., a contract of service or apprenticeship) with or without notice. –
- An employee terminates their contract of employment, with or without notice due to the conduct of the employer. This is known as Constructive Dismissal. When an employee claims constructive dismissal under the Unfair Dismissals Acts 1977-2015, they should be able to prove that their resignation was justified. The purpose of the Unfair Dismissals Acts is to protect employees from being unfairly dismissed from their contract of employment by establishing the criteria by which dismissals are to be considered unfair, and by providing an adjudication system and redress for an employee whose dismissal has been found to be unfair.
- If an employee brings their case to the WRC under the Unfair Dismissals Acts, the Board of Management should be able to show that there were fair grounds for the dismissal. Generally, a dismissal is considered to be unfair, unless the Board of Management is able to show substantial grounds to justify it.

The Unfair Dismissals Acts provides for a number of grounds under which a dismissal may be considered unfair:

- Membership or proposed membership of a trade union or engaging in trade union activities, whether within permitted times during work or outside of working hours. - Religious or political opinions.
- Legal proceedings against a Board of Management where an employee is a party or a witness.
- Race, colour, sexual orientation, age, disability or membership of the Traveller community.
- Pregnancy, giving birth or breastfeeding or any matters connected with pregnancy or birth.
- Availing of rights under legislation to maternity leave, adoptive leave, carer's leave, parental or force majeure leave.
- Unfair selection for redundancy.

Sexual Harassment

Sexual Harassment is any form of unwanted verbal or physical conduct of a sexual nature which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating, or offensive environment for the person. (As defined in the Report of the Task Force on the Prevention of Workplace Bullying, published by the Stationery Office, March 2001)

Sexual harassment, along with attempts to have sexual interaction could also constitute bullying. In Ireland, bullying and sexual harassment are distinct. More specifically, sexual harassment is regulated by the Irish law (Employment Equality Acts 1998-2015), which means that specific procedures are followed when responding to sexual harassment cases outside the bullying arena.

The Employment Equality Act (1998) defines sexual harassment as any act of

- Physical intimacy - This may include unwanted physical contact such as unnecessary touching, patting, pinching or brushing against another employee's body, assault, or coercive sexual intercourse.
- Verbal conduct of a physical nature - This includes unwelcome sexual advances, propositions or pressure for sexual activity, continued suggestions for social activity outside the workplace after it has been made clear that such suggestions are unwelcome, unwanted or offensive flirtations, suggestive remarks, innuendos or lewd comments.
- Non-verbal conduct of a sexual nature - This may include the display of pornographic or sexually suggestive pictures, objects, written material, emails, text messages or faxes. It may also include leering, whistling or making sexually suggestive gestures.

Examples of sexual harassment (not exhaustive):

- Sexual jokes, stories, comments, use of telephone (including text messages), fax or radio systems for inappropriate suggestive comments.
- Display of offensive pictures, video, slogans, graffiti, written suggestive materials, etc. through email or otherwise (including a display of pornographic or sexually suggestive pictures or objects);
- Telling lies or spreading rumours about a colleague's sex life;
- Unwanted physical contact ranging from unnecessary touching to assault;
- Persisting in unwelcome attempts to form a relationship or continue a relationship to which one party has not consented, or for which s/he has withdrawn his/her consent.

Sexual Harassment may consist of a single incident, or repeated inappropriate behaviour.

What Does Not Constitute Bullying and / or Harassment

Management of Performance

It is the duty of management to be open with staff about performance, attendance, or general conduct.

Bullying and harassment do not arise where critical comments are made in an honest and constructive manner, are backed up by clear facts and are imparted in a reasonable way.

The following behaviour does not constitute bullying or harassment:

- The proper exercise of authority by management;
- Constructive and fair criticism of a staff member's conduct or work performance.

Where issues arise in this area, it may be more appropriate to address them under the Grievance Procedure, See Working Together Procedures

General Guidelines

It is acknowledged that occasionally there may be disputes or disagreements between colleagues which, although they can evoke strong feelings and result in a difficult working environment, may not match the definitions of bullying, harassment or sexual harassment as outlined above.

While resolving such disputes may be difficult, staff are encouraged to address disputes in a proportionate way, availing themselves of existing mechanisms, supports and procedures in the process.

Parties to such disputes may seek to resolve issues informally initially and if there is no resolution, parties may wish to engage in accordance with the principles of mediation, namely, voluntary participation, positive engagement, moderate language, and respectful thinking. School managers, internal or external professionally qualified mediators if required, may facilitate this process in accordance with these principles.

A prompt and informal problem-solving approach offers the best potential for addressing allegations of bullying effectively. This collaborative and non-adversarial approach is particularly important in situations where people must continue to work together into the future.

Complaint Procedures

Supportive and effective procedures, in accordance with nationally agreed procedures, [Working Together INTO/ Bullying Prevention Policy - Complaint Procedure for Staff and Harassment/Sexual Harassment Prevention Policy - Complaint Procedure for Staff and The Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work Code 23/12/2020 are in place in this school. All procedures to address and investigate allegations will focus on the earliest possible resolution, will proceed as necessary from informal to formal stages and will be confidential.

For Teachers:

The *Working Together-Procedures and Policies for Positive Relations* recognises and outlines the procedures to be adopted in the case of:

1. **Staff Relations Difficulties, (p.15)**
2. **Adult Bullying and Harassment (p.19)**
3. **Grievance Procedures (p.26)**

Catherine McAuley School will adopt these procedures at all times in its efforts to maintain positive staff relations and deal with any complaint brought by against staff. It allows for fair and balanced investigation.

Information to the person complained against:

The person complained against should be notified in writing that an allegation of bullying has been made against him/her. He/she should be assured of the organisation's presumption of his or her innocence of any wrongdoing at this juncture. He/she should be advised of the aims and objectives of the formal process and procedures and time frame involved and the possible outcomes. He/she should be assured of support as required throughout the process.

A meeting should be organised at which he/she is given a copy of the complaint in full and any relevant documents including this Dignity in The Workplace Policy.

For SNA's and all other Board of Management Employees:

Informal Processes

There are several elements to a good informal process:

- People being confident that they will be listened to, will be taken seriously and that their issues will be assessed fairly, quickly and effectively.
- Managers having the confidence and capacity to engage on such issues and to respond and consult appropriately.
- Confidentiality to be respected by all.
- A focus always on the future workplace relationship and a problem-solving orientation.

An informal approach may effectively address the unwanted behaviour 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, unwelcome, or undermining and/or causing distress.

Recommended Steps

Initial Informal Process

In the first instance, the unacceptable behaviour/acts should be raised by the target employee with the person involved but only if they feel comfortable in doing so. This should be done quickly and calmly, focusing on the facts regarding acts done and their consequences.

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 an employee perceives that the concerns relate to an immediate manager, the employee may wish to discuss the matter informally with their manager's manager or a person at the next level of management. The employee may wish to avail of the support of a Contact Person, where applicable, for guidance and to get a copy of the Anti-Bullying Policy document.

The focus of the above is to seek to resolve the matter informally by agreement without recourse to any other step. An informal discussion is often sufficient to alert the person concerned to the effects of the behaviour alleged and can lead to a greater understanding and an agreement that the behaviour will stop. It can also lead to an explanation of the original intention of the behaviour and/or an agreement to modify the behaviour. On the other hand, it may be that the behaviour is valid and reasonable, and the reaction of the offended party is at odds with the generally accepted understanding of the behaviour.

In the context of being aware of an allegation by an employee, and whether the matter has been resolved, there may be value in the Board of Management nominating a person to review good practice generally in the workplace around dealing with such matters. For example, an awareness campaign highlighting examples of appropriate behaviour as well as improper behaviour and some explanation of effects to be brought to everyone's attention.

A brief written record of the matter should be kept, in line with relevant data protection legislation, and agreed outcomes and dates noted by the relevant person responsible for managing the complaint.

If a dispute involves bullying or harassment or sexual harassment, it is open to parties to move to employ any of the Procedures as outlined in the Working Together Document in order to reach resolution at any stage and it is advisable in the case of Sexual Assault, Physical Assault, Violence, that staff be advised of their rights to speak with An Garda Síochána.

Secondary Informal Process

If the primary informal process is unsuccessful or if the complainant or the Board of Management deem it inappropriate for the seriousness of the issues, this more protracted, yet still informal system can be put in place.

- The Board of Management as employer may nominate a separate person who has had appropriate training and experience and who is familiar with the procedures involved to deal with the complaint on behalf of the organisation. This person should not be the Contact Person. They may be a supervisor/manager or someone in authority within the organisation.

- For each complaint that arises, a nominated person should be assigned to deal with that particular case. This is a very important role and pivotal in altering bullying cultures and handling complaints effectively at the informal stage.

The Board of Management will ensure that effective guidance and training is in place for those who are engaged at this level with the process.

- The complaint may be verbal or written. If verbal, a written note of what is being complained about should be taken by the nominated person and a copy given to the complainant.

- This nominated person managing the complaint, should then establish the facts, the context and then the next course of action in dealing with the matter under the informal procedure.
- If the complaint concerns alleged bullying as defined and includes concrete examples of inappropriate behaviour, the person complained against should be presented with the complaint and their response established.
- Thereafter a method should be agreed to progress the issue to resolution so that both parties can return to a harmonious working environment without bullying being a factor
- If the behaviour complained about does not concern alleged bullying as defined, an alternative approach will 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.
- Management should be kept informed, as appropriate, about the process in train.
- Steps to stop the bullying behaviour, where it has been partly or fully identified, and monitoring of the situation along specified lines will be implemented with both parties. This may involve a direct or indirect approach and possible resolution through a programme to change behaviour. It may also involve mediation by an agreed mediator who is practised in dealing with alleged bullying at work.
- Enough time needs to be allowed for the mediation or on-going monitoring process to be successful and behaviour change to be realistically achieved over the longer term. It may be necessary to consider if other working arrangements are required or feasible during this short-term phase. A proposal should be made, considered, and an action and time frame established, signed, and dated, preferably by both parties.
- The nominated person who was responsible for managing the complaint should keep a nominal record of all stages; the complaint, the first meeting, action agreed and signed records of the final meeting. The purpose of the 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. Records should be kept in accordance with relevant Data Protection Legislation (section 2(1) governing Retention), within an agreed human resources system and be available only to that legislation.
- Information disclosed in the course of mediation must remain within the mediation process and must not be given by the mediator to anyone or to an investigator if there is a subsequent investigation at formal stage. Confidentiality is crucial for this stage to be effective and breaches of confidentiality, where exposed, should be met with sanctions highlighted in advance

Closure of informal stages

The following are some of the steps that should ideally be used to close off informal proceedings, ensuring that both parties have their rights met:

- Obtain closure after a resolution is found through informal procedures. Both parties should be given support or periodical reviews, insofar as is reasonable, which, if necessary, could include counselling or other appropriate interventions or support services.
- Where a complaint has been assessed as vexatious, the matter should be progressed through other relevant procedure.
- In many situations, with the co-operation of all parties, the matter can rest here

Formalising

Should the mediation process be either unsuitable or unsuccessful in resolving general disputes, the INTOs Working Together: Procedures and Policies for Positive Staff Relations (2000) should also be considered as an alternative resolution method and the Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work Code 23/12/2020.

It would be expected that staff would make every effort to resolve general disputes in an informal way. However, if a dispute involves alleged bullying or alleged harassment or alleged sexual harassment, it is open to parties to move to employ any of the Procedures as outlined in the Working Together Document and in order to reach resolution at any stage.

In the case of Sexual Assault, Physical Assault, Violence, it is obviously a legal matter and staff should be advised of their rights to speak with An Garda Síochána.

Making a Formal Complaint

Formal process

It is good practice that all informal resolution avenues – as set out above – should be contemplated and where appropriate, exhausted before a formal process is invoked.

Proceeding to a formal process should not be viewed as automatic and it is important that it is recognised that it is the reasonable evidence-based decision of management. Escalating a complaint to a formal process should only be done following a review of all aspects of the circumstances surrounding matters complained about. Being able to evidence a reasonable decision-making process is important and may be required to defend the Board of Management's duty as Board of Management, at a later stage, so a record of that should be kept by the appropriate person acting for the Board of Management.

This process includes a formal complaint and a formal investigation. The purpose of an investigation is to set up a fact-finding approach and determine the facts and credibility or otherwise of a complaint of alleged bullying. It is a significant step, and all parties should be aware of possible consequences. In particular, an investigation will make it more difficult to restore normal workplace relations and may not have the desired outcome for the parties concerned.

The outcome of an investigation may eventually, separately lead to a disciplinary process being instigated in respect of the person complained about, but the investigation itself will be a fact-finding one with the focus on what did or did not occur. Where an investigation is to be carried out, the procedures outlined below should be followed.

The complainant should make a formal complaint in writing that should be signed and dated. Where this is not possible, a written record should be taken of the complaint by the assigned person and signed by the complainant and dated.

The complaint should be confined to precise details of alleged incidents of bullying, including their dates, and names of witnesses, where possible.

The complainant and the respondent should be advised of the aims and objectives of the formal process, the procedures and approximate ideal timeframe involved, and the possible outcomes.

Both parties will be assured of support as required throughout the process. An initial meeting should be organised by the Board of Management at which each person is met with separately, starting with the person making the allegation. The other party, when met with, should be given

a copy of the complaint in full, and both should be given any relevant documents including the company's Anti Bullying Policy

Investigation

The investigation should be governed by terms of reference which will include the following:

- The investigation will be conducted in accordance with the employment's Anti Bullying Policy which should reflect this Code of Practice.
- An indicative timescale for its completion – this timeframe should be proposed, and its rationale explained.
- The scope of the investigation, sets out the procedure to be adopted for findings of fact related to the complaint and a statement that the investigator will consider, based on the facts before them whether the behaviour(s) complained about, on the balance of probabilities, have occurred.
- The confidentiality of the process will be emphasised to all concerned.

All parties to the process have a responsibility to participate without undue delay in any investigation initiated in response to an allegation of bullying.

The scope of the investigation will indicate that the investigator will decide, based on the facts before them, whether the behaviour complained about may, on the balance of probabilities, have occurred. The investigator will not uphold or dismiss the allegations and/or suggest or impose sanctions.

Statements from all parties, including witnesses, will be recorded in writing as the use of written statements tends to make matters clearer from the outset and maintains clarity throughout the investigation. Copies of the record of their statements will be given to those who make statements to the investigator. Copies will also be provided to the complainant and the person complained about and will result in findings of fact only.

If possible, all parties will continue to work normally during the investigation. The objective of an investigation is to ascertain whether, on the balance of probabilities, the behaviours complained about occurred, it having already been established that the behaviours come within the description of workplace bullying.

Details of the complaint, responses of the person complained of witness statements and other relevant evidence are relied on for this purpose. The investigation will be conducted by either a designated member(s) of management (as outlined earlier in this Code) or, if necessary, (for example in the case of any possible conflict of interest) an independent third party. In either case, the person nominated will have appropriate training and experience and be familiar with the procedures involved.

The investigation will be conducted thoroughly, objectively, with sensitivity, utmost confidentiality, and with due respect for the rights of both the complainant and the person complained of. The investigator will meet with the complainant, the person complained about, and any witnesses or relevant persons on an individual confidential basis with a view to establishing the facts.

A work colleague or employee/trade union representative (provided the person has representation in line with the principles of natural justice and fair procedure) may accompany the complainant and the person complained of, if so desired. The investigation will consider all material and evidence before it and a decision will be made on balance of probability, as to whether the complaint is valid.

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 Board of Management will invoke the Disciplinary Procedure.

Appeals

Within the workplace formal system, an appeals process for both parties will be in place. The reason for the appeal will be outlined in writing to management if such an option is being taken. The time period for an appeal will be specified in the policy.

The appeal will be heard by another party, of at least the same level of seniority as, but preferably more senior than, the original investigator. This party will have had no involvement in the investigation. The appeal will focus on the conduct of the investigation in terms of fair process and adherence to procedure.

It should be noted that an appeal is not a re-hearing of the original issues. The outcome of the appeal shall be final insofar as the employer's duties under health and safety legislation is required.

The Board of Management will need to consider at the outset of the formal process how they would manage a request for appeal and how this may require outside independent support.

Management of Malicious Complaints

A malicious complaint can be described as an allegation being made without foundation, and with malicious intent, where a person knowingly or without regard to whether it is true or not, accuses another person of allegedly bullying them. This could also apply to where one person maliciously complains of someone allegedly bullying a third party, without fully exploring the veracity of the claim.

A malicious complaint has the power to disrupt another person's life to a significant extent and the potential damage should not be underestimated. Being accused of bullying can have a serious impact on any person and reduce his or her reputation in the eyes of others, even if later shown to not have been proven.

Those making complaints, and those involved in early assessment of the circumstances of a complaint, will always be mindful of the context and situational aspects of the event and accept the different perspectives and points of view different people bring to the same event. Making a malicious complaint, if proven, can have serious implications for the employment of the person making such a complaint and this includes disciplinary action, where established.

It must be accepted that investigations can result in very divisive relationships for individuals, teams, and departments. Some type of reconciliation or rehabilitative meetings, or team working session may be considered as appropriate to restore healthier working communication for the future. In many situations, with the co-operation of all parties, the matter can rest here.

The Board of Management, as the employer, will decide, in light of the investigator's report and the findings of fact therein, what action is to be taken arising from that report. The Board of Management as employer will then, in writing, inform both the complainant and the person complained against, of the next steps. At the end of the formal process, documentation will be kept by the Board of Management as employer, in line with the relevant Data Protection Legislation.

If Internal Procedures Do Not Resolve a Bullying Complaint

If full utilisation of the range of available internal procedures has not resolved a bullying complaint, the matter may be referred to a WRC Adjudicator under Section 13 of the Industrial Relations Act, 1969. (See Section 6.2) The Adjudicator will not rehear the substance of the case. A number of outcomes are possible; the Adjudicator may conclude that the investigation was conducted properly and fairly and hence its conclusions will stand. The Adjudicator may, on the other hand, conclude that the investigation process was flawed in some respects and could recommend, for example, that the investigation be reheard.

All parties directly involved in the complaint (the complainant(s) and respondent are entitled to know whether the complaint is upheld in whole or in part, or if it is not upheld and the reason(s) why). For the avoidance of doubt, specific details of disciplinary action to be taken against any party are confidential and other parties are not entitled as a matter of course to receive this information as part of the outcome. Health and Safety duties on employers require that, having identified a hazard, they must put control measures in place. These involve prevention actions, managed elimination of the behaviour, protective measures, and remedial actions, where appropriate. They will also keep records of all such actions taken.

Role Of the Health and Safety Authority

Introduction

There are a range of State and non-State agencies which have a function in the area of workplace bullying. Different pieces of legislation also have a bearing in preventing and managing bullying cases, some before the event, others in the management of cases as they arise and others still, after the fact.

The HSA operates under the statutory powers of the 2005 Act. Its purpose is to provide protection for employees in all places of work in the Republic of Ireland. The overarching tenet of the 2005 Act is to oversee the employer's duty to ensure everyone at work is provided with a workplace and system of work which is, as far as is reasonably practicable, free from risk to health and to safety. There are, within the 2005 Act, specific duties on employers and others on employees to uphold and promote this standard, as well as a healthy and safe culture.

There are provisions within the 2005 Act which are relevant to the issue of workplace bullying, both directly and/or indirectly. Section 8 2(b) directly references 'improper conduct' and the employer's duty to ensure the workplace has an adequate system in place to prevent such conduct. Section 19 (Hazard Identification and Risk Assessment) and section 20 (Safety Statement) reference the employer's duty to have in place adequate systems of work and to record these actions in written form. Section 13 (Duties of Employee) includes the employee's duties to cooperate with such employer activities. 6.1.2 System for processing bullying complaint/cases

As well as engaging in promotion and awareness raising activities, the HSA provides a public Workplace Contact Unit (WCU), where employees who consider themselves to be bullied can report their issue. Employees can either report it as a complaint or, if they are seeking information about the topic and/or are unsure as to whether or not their experience is, in fact,

bullying, they can contact WCU to make an enquiry. This latter approach will be recorded as a 'Request for Information (RFI)'.

The WCU responds to RFIs by providing either a verbal or written answer to the customer, or, if they are not in a position to answer the query, they will forward the RFI to an appropriate person who will respond. Where a complaint is made concerning bullying, it can be classified in various ways, depending on its content and the nature of the complaint. The first filter every complaint goes through is to assess whether or not, noting the behaviours complained of, the issue falls within the definition and scope of a bullying complaint (see What is bullying at work?)

If the complaint concerns a person who feels they are being bullied, and what they describe falls within the scope of workplace bullying and they report that the employer is not taking any action, that matter will be recorded by WCU and the employer contacted to assess their response and follow up to the matter insofar as the employer's action is concerned.

Where the complaint is that the employer did take action, but the employee is unhappy with the action or the outcome of that action, the role of the HSA is to assess whether or not, insofar as is reasonably practicable, the employer's actions were adequate.

If the complaint is from a person accused of bullying, similarly, the HSA role is the same – to assess the employer's processing of the matter. In each of the above scenarios, the HSA is a neutral party whose remit is to ensure the safety and health of the employee through the reasonable and practical actions provided for by employers in their systems of work generally and the management of the issue specifically.

The HSA has the statutory remit to ensure employer duties of care to all employees and management of improper conduct at work, where the hazard of bullying exists, is upheld. The HSA can, where an employer fails to act reasonably in an existing bullying matter, issue enforcement action in various forms, from verbal advice to written advice, an Improvement Direction or an Improvement Notice.

The HSA can also, after investigation, forward a file, with recommendations, to the Director of Public Prosecution (DPP) for their decision as to the prosecution of employers where there is evidence that the employers have failed in their duty to protect an employee or employees from the harmful fallout of bullying. The HSA has no role in the sanction or disciplinary actions taken in these matters and does not have a role in mediation, negotiation or conflict resolution between parties to a bullying case.

Role of the Workplace Relations Commission WRC

The WRC's objective at all times is to achieve harmonious working relations between employers and employees. The Commission would always encourage local discussion on, and

resolution of, disputes and issues which arise in the workplace including cases of alleged bullying.

The Workplace Relations Commission delivers several services which may assist.

- Individual and collective workplace mediation focus on seeking to resolve the matter at an early stage locally before a formal process is initiated. This is dependent on the agreement of the parties concerned to participate and is provided by the WRC on an ad hoc basis.
- Workplace mediation provides a confidential, professional, efficient and effective process to assist all parties in reaching a mutually acceptable agreement or outcome to a dispute or claim. This approach often helps to avoid more formal processes.
- It is particularly suited to disputes involving individuals or small groups of workers who find themselves dealing with situations which may involve the following: interpersonal differences, conflicts, difficulties in working together, breakdown in a working relationship.
- Reviewing overall workplace relations generally in organisations and assisting with the implementation of positive engagement measures.
- The provision of Adjudication services under Section 13 of the Industrial Relations Act 1969 following the exhaustion of internal procedures (note: the grounds of a referral to an Adjudication Officer are around the conduct of an investigation in terms of fairness and adherence to fair process and procedure).

Synopsis

Any employee who feels he or she has been or is being bullied, harassed or sexually harassed should immediately ask the perpetrator to stop. It is understandable that the employee may feel unable to speak with the perpetrator, but it is important that the employee does tell the perpetrator to stop. If this fails to achieve the desired result, the employee may report the matter to any of the following school personnel – the Principal, the Deputy Principal, INTO staff representative or teacher/member of the Board of Management or Chairperson of the Board of Management of St. Dymphna's School. Without prejudice to an individual's right to take such advice or steps as they themselves may decide, the Board of Management will take seriously any allegations of workplace bullying or harassment.

Any complaint of harassment shall be fully and properly investigated by the Board of Management and if substantiated, will be regarded as grounds for disciplinary action up to and including dismissal.

All attempts should be made to resolve the matter informally if appropriate. If it is not possible to resolve the matter informally, a formal complaints procedure as agreed by the INTO and management bodies shall be applied. This procedure is outlined in the INTO Members Handbook⁴ and the CPSMA Management Board Members Handbook and the Working

Together Documents. No record of any complaint will be registered on an employees' file unless a formal procedure as outlined in these documents is applied.

Supportive and effective procedures, in accordance with nationally agreed practice, are in place in St. Dymphna's school. These procedures which aim to address and investigate allegations will focus on the earliest possible resolution, will proceed as necessary from informal to formal stages and insofar as possible, confidentiality will be ensured at all times during the investigation for all parties involved.

In seeking a resolution, due respect shall be had for the rights of the complainant and the alleged perpetrator. (Employment Equality Act, 1998 (Code of Practice) (Harassment) Order 2002 (S.I. No. 78 of 2002) Chapter 7, INTO Working Together Documents, Members Handbook CD, INTO, 2003, CPSMA Management Board Members' Handbook, CPSMA)

No aspect of this policy affects any employees' individual legal rights to take their complaint outside of the school.


CONCLUSION

The Board of Management understands that it has a duty of care towards employees. Similarly, employees have a duty of care towards one another. This policy has set out principles and practices to support the exercise of that duty in our school and to ensure that each and every member of the school community experiences dignity in the workplace. Together we are committed to building and maintaining a work environment where respectful, open and equal relationships are the norm.

A copy of this policy will be posted in the area of our Aladdin Management system which is accessible to all staff. A copy of this policy will also be posted on our school website and available on the staff room noticeboard.

This policy was adopted by the Board of Management at a meeting on 25 October 2023
This policy will be reviewed again in November 2025.

Signed: 
Chairperson of Board of Management

Signed: 
Secretary/Principal

Date: 25 October 2023

Date: 25/10/23