National Youth Orchestra of Ireland
Ceolfhoireann Náisiúnta Óige na hÉireann

DIGNITY AND RESPECT AT WORK POLICY

JANUARY 2025

Introduction

The National Youth Orchestra of Ireland is committed to protecting the dignity and respect of all those who work together in the organisation's operations, activities and courses. In particular, the NYOI is committed to ensuring that the workplace is free from any form of bullying or harassment, and that our work environment is conducive to providing a high-quality service in an atmosphere of respect, safety and equality.

Bullying or harassment within the workplace or in connection with the work of the NYOI will not be tolerated. This policy extends to behaviours that occur outside the work premises, such as at social functions, residential courses, workshops, performances or training events that are connected in any way with the workplace or a particular project. Complaints of bullying or harassment may be dealt with either in a formal or an informal way, or by alternative means, as described below.

Complaints by employees or other persons in the workplace, of bullying or harassment at work, will be treated with fairness, sensitivity, respect and (as far as possible) confidentiality for all parties concerned. Any person accused of bullying and/or harassment will be afforded natural justice and treated with fairness and sensitivity.

The Chief Executive Officer has responsibility for creating and contributing to the maintenance of a work environment free from bullying and/or harassment. There is a responsibility on the CEO to ensure the prevention of incidents of bullying and/or harassment, and to take action should any incidents be brought to their attention. Employees, contractors, artists, and orchestra members also have an obligation to cooperate with the investigation of complaints of bullying and/or harassment in the workplace. Employees, contractors, artists, and orchestra members who make or participate in the investigation of a complaint will not be subject to victimisation of any kind for doing so.

Nothing in this policy limits the right of the employer to investigate any matter that may relate to bullying and/or harassment in circumstances where a complaint has been made. All employees, contractors, artists, and orchestra members continue to have an obligation to cooperate with any such investigation.

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This policy applies to:

- All employees, whether permanent or fixed-term, full-time or part-time, and irrespective of length of service.
- Others working or associated with this company, such as artists, orchestra members, volunteers, clients, suppliers and other service providers.
- Throughout this policy all these categories of workers are grouped as 'employees, contractors, artists, and orchestra members'.

Harassment, sexual harassment and bullying

Harassment

Harassment is any form of 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. Harassment is related to any of the following grounds:

- Family status
- Civil status
- Sexual orientation
- Religious belief (or lack thereof)
- Gender
- Age (16+)
- Race, colour, nationality or ethnic or national origin; or
- Membership of the Travelling community
- Disability

For the purpose of the above definition, conduct includes acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material. To constitute harassment, the behaviour can be a once-off event or persistent and repeated behaviour. The following are some specific examples of the forms such conduct might take:

- Verbal harassment – spoken words, shouting, ridicule, unfair or excessive criticism, jokes, comments or songs;
- Physical harassment – pushing, shoving or any form of assault;
- Written harassment – including production of faxes, text messages, emails or notices;
- Intimidatory harassment – gestures, posturing or threatening poses;
- Visual displays such as posters, emblems or badges;
- Isolation or exclusion from social activities;
- Excessive monitoring of work;
- Unreasonably changing a person's job content or targets;

- Pressure to behave in a manner that the person thinks is inappropriate – e.g. being required to dress in a manner unsuited to a person's ethnic or religious background where there is no objective need to do so.

These examples are not exhaustive, and offences of a similar nature are also prohibited and will be dealt with appropriately.

Sexual harassment

Sexual harassment is any form of unwanted 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.

It is up to the person to decide which behaviour is unwelcome, irrespective of the attitude of others to the matter.

For the purposes of the above definition, conduct includes acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material. Sexual harassment may occur between men and women or between persons of the same gender. A single incident may constitute sexual harassment. The following are some specific examples of the forms such conduct might take:

- Non-verbal conduct of a sexual nature – looks, gestures, whistling, suggestive symbols, pictures, written materials, faxes, emails or text messages;
- Verbal conduct of a sexual nature – advances, propositions, suggestions, jokes, comments or innuendo and continued suggestions for social activity outside the workplace;
- Physical conduct of a sexual nature – groping, kissing, fondling, patting, pinching, unnecessary touching, assault or rape;
- Gender-based conduct – conduct that denigrates, ridicules or is intimidatory or physically abusive of a person because of his or her sex, such as derogatory or degrading abuse or insults that are gender-related.

These examples are not exhaustive, and offences of a similar nature are also prohibited and will be dealt with appropriately.

A person is protected from different treatment because they have rejected or accepted the sexual harassment or harassment

Bullying

Bullying is 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.

An isolated incident of the behaviour described in this definition may be an affront to dignity at work, but, as it is not repeated, it is not considered to be bullying.

The following is a non-exhaustive list of examples of types of bullying, and offences of a similar nature are also prohibited and will be dealt with accordingly:

- Being treated less favourably than colleagues;
- Verbal abuse, insults;
- Humiliation;
- Intimidation, aggression or threatening behaviour;
- Isolation or exclusion with negative consequences;
- Intrusion by pestering, spying and stalking;
- Repeatedly manipulating a person's job content and/or targets;
- Withholding work-related information;
- Unfair and excessive criticism;
- Undermining behaviour;
- Excessive monitoring of work.

The behaviour must reasonably be capable of undermining dignity at work.

Bullying is behaviour that is inappropriate at a human level – e.g. purposely undermining an individual, targeting them for special negative treatment, the manipulation of their reputation, social exclusion or isolation, intimidation, aggressive or obscene behaviour, jokes that are obviously offensive to one person, intrusion by pestering, spying and stalking. These are all examples that share the feature that they are unacceptable at the level of human interaction.

Intention of perpetrator

The intention of the perpetrator of bullying or harassment is irrelevant. The fact that the perpetrator has no intention of bullying or harassing the victim may not be a defence.

Performance management

The reasonable and essential discipline arising from the good management of the performance of a person at work does not amount to bullying or harassment. Similarly, an

action taken that can be justified with regard to the safety, health and welfare of people does not amount to bullying or harassment.

Complaints procedure

All employees, contractors, artists, and orchestra members have a right to make a complaint if they feel they have been bullied and/or harassed, and they should follow the steps in the following procedure. All complaints will be taken seriously, and the procedure will be handled with fairness, sensitivity and due respect for the rights of both the complainant and the alleged perpetrator. There is a two-tiered approach in the procedure – informal and formal – to address the issue of bullying or harassment in the workplace.

During any investigation into a complaint, the principles of natural justice must be adhered to. External assistance may be necessary to deal with complaints in some circumstances so as to ensure impartiality, objectivity and fairness in an investigation.

The informal procedure

Method of making an informal complaint

Any person who believes that he or she is being bullied or harassed should, where possible, indicate directly to the person complained of that the behaviour in question is unacceptable.

If the person believes that this approach is not suitable or has been unsuccessful, they may then make an informal complaint.

Informal complaints should be addressed to the CEO. Where the CEO is involved in the incident , the person should raise the complaint with the Chairperson of the board or another board member. The board may assist in making arrangements to employ an external party to facilitate resolving the issue.

An informal complaint may be verbal or written.

The CEO and/or the board will designate a person to handle the complaint. If the complaint was verbal, a written note of what is complained of will be taken by the designated person and a copy given to the complainant.

Procedure that will be followed when receiving an informal complaint

The facts and context of the complaint will be established, and the next course of action in dealing with the matter under the informal procedure will be determined. Other possible courses of action available to the complainant, including mediation, will be discussed.

- Where specific examples are given

If the complaint concerns bullying and/or harassment and includes specific examples of the behaviour complained of, the person complained against will be presented with the complaint and given a chance to respond.

After the response is received (or a reasonable period of time has elapsed without a response having been received), a method will be agreed to progress the issue to resolution so that both parties can return to a harmonious working environment without bullying or harassment being a factor.

If the behaviour complained of does not concern bullying or harassment as defined, an alternative approach will be put in place and a rationale recorded.

- Where no specific examples are provided

If no specific examples are provided, there is no complaint to be answered under this policy. Then other means of protecting and repairing workplace relationships may be considered by the person receiving the complaint.

A record of all stages of the process, the complaint, the first meeting, action agreed and signed records of the final meeting will be kept by the NYOI. The purpose of the records, which will not include details of discussions, is to provide evidence that the complaint was dealt with in an appropriate manner.

All parties will maintain, insofar as possible, the confidentiality of the informal process. Breaches of confidentiality will be treated as a serious disciplinary matter.

Resolution

When resolution is found through the informal procedure, both parties will be given support or periodic reviews, as appropriate. These may include counselling or other appropriate interventions.

Where a complaint is found not to have been made in good faith, the complainant will be the subject of disciplinary action.

Resolving the problem by mediation

Mediation is an alternative method of resolving issues relating to bullying and harassment. Mediation involves the parties seeking to arrive at a solution through mutual agreement, rather than through an investigation and decision.

Mediation provides a confidential opportunity for the person who feels that he/she has been bullied or harassed, and the person accused of carrying out this inappropriate behaviour, to discuss the matter and to reach an agreement on their continuing working relationship.

Mediation is conducted in private, and is directly between the parties concerned, with the support of a mediator, who will act as an independent facilitator. Either party may withdraw from the process at any time by notifying the mediator, in writing, that they wish to do so.

If both parties agree to resolve the issue by mediation, the CEO will arrange the mediation process. If the CEO is involved in the issue, you will be directed to the Chairperson of the board or another who will assist in organising a mediator. An appropriate person, acceptable to both parties, from within or outside the organisation, will be assigned as mediator.

If the mediation process results in an agreement acceptable to both parties, the mediator may draw up a written record of the terms of the settlement for signature by both parties.

If the matter is resolved by mediation, no disciplinary action will be taken.

If mediation breaks down or fails to achieve its goal, the only other option is to have the matter resolved by investigation. A person involved in the mediation process will not be involved in the investigation process. Resolving the matter by investigation may also be considered if the person concerned feels that it is inappropriate to resolve the matter by mediation.

Formal procedure

In cases where a person believes that an informal resolution is not a suitable means of addressing his or her concern, or where the person believes that their previous recourse to the informal complaints procedure has been unsatisfactory, a person may make a formal complaint of bullying and/or harassment. Choosing to bypass the informal process will not reflect negatively on the person concerned.

In cases where a person makes an informal complaint, but where management believes, because of the gravity of the subject matter of the complaint or for some other reason, that

the informal complaints procedure is inadequate to address the complaint, the complaint may be dealt with by using the formal complaints procedure.

Method of making a formal complaint

Formal complaints should be made in writing, signed and dated. The complaint should be confined to precise details of alleged incidents of bullying and/or harassment, including the dates of such incidents and the names of any witnesses.

Formal complaints should be addressed to the CEO. If the CEO is involved in the incident, the complaint should be submitted to the Chairperson of the Board or another board member, who may conduct an investigation or assist in making arrangements to conduct an investigation.

On receipt of a formal complaint, an investigatory panel will be designated by the CEO and/ or the Board of Directors. The investigator panel may consist of up to two persons, and may include management or board representatives. The organisation may engage an external independent investigator/s if it is deemed appropriate in the circumstances. In exceptional circumstances, if either party has an objection to the investigatory panel, the CEO may designate an alternative panel. An objection to the designated investigatory panel must be made in writing to the CEO in a timely fashion, and must clearly outline the grounds of the objection.

Complaints in writing

Where a formal complaint is made but the complainant declines to submit a written statement, then a written record will be made of the complaint by the investigatory panel. The complainant will be asked to sign this record.

In the event that the complainant refuses to sign this record, the complainant will be made aware that the ability of the National Youth Orchestra of Ireland to investigate the complaint on a formal basis may be compromised by any failure of the complainant to cooperate with the procedure in place. Efforts will be made to clarify this issue before any further steps are taken.

The complainant will be advised of the aims and objectives of the formal process, the procedures and time frame involved, and the possible outcomes. He or she will be assured of support as required throughout the process. He or she will be given a copy of this policy.

Procedure that will be followed

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

- A provision to the effect that the investigation will be conducted in accordance with this policy
- An indicative time frame for the completion of the investigation
- Provisions relating to the scope of the investigation, indicating that the investigator will consider whether the complaint falls within the definition of bullying or harassment at work and whether the complaint has been upheld.

The person complained against will be notified in writing that an allegation of bullying and/or harassment has been made against him or her. He or she will be advised of the aims and objectives of the formal process, the procedures and time frame involved, and the possible outcomes. He or she will be assured of support, as required, throughout the process. A meeting will be organised at which he or she is given a copy of the complaint in full and any other relevant documentation, including this policy. He or she will be given time to consider the documentation and an opportunity to respond.

The investigator will meet with the complainant, the person complained against, and any witnesses or relevant persons, on an individual basis, with a view to establishing the facts. The complainant, the person complained against, and any witnesses will be entitled to be accompanied by a work colleague/trade-union representative, if applicable, at any meeting.

All interviews with parties and witnesses will be conducted sensitively and with due respect to the rights of all concerned. The investigation will be conducted on a confidential basis, insofar as that is possible.

Statements from all parties and witnesses will be recorded in writing. Copies of the statements will be agreed with, and given to, those who make statements to the investigatory panel.

During the investigation

All parties will continue to work normally during the investigation, unless directed otherwise. Where necessary, parties to the complaint will be suspended with full pay to allow for a fair and thorough investigation. Such a suspension is not a disciplinary sanction, and this will be made clear to the relevant parties.

The management will make every effort to ensure the protection of all involved in the investigation.

The parties to the complaint should not communicate regarding the complaint.

Any effort by any party to intimidate or otherwise influence any complainant, respondent or witness during the course of an investigation will be regarded as a disciplinary matter of the utmost gravity.

Conclusion of investigation

The objective of an investigation will be to ascertain whether or not, on the balance of probabilities:

- The behaviour complained of occurred, and, if so,
- Whether or not that behaviour amounted to bullying and/or harassment, as defined,

It will be open for the designated investigators to determine if there is a prima facie case to answer based on the definitions of bullying and harassment outlined in this policy.

The investigation will be completed as quickly as practicable, preferably within the indicated time frame. The investigatory panel will submit a report to the CEO, which will include the conclusions. The report will be examined for thoroughness, objectivity and reasonableness. The complainant and the person complained against will be given a copy of the report as soon as practicable by the CEO, and will be given an opportunity to comment, within a prescribed period of time, before the management decides on any further course of action.

The management will decide the action that is to be taken in light of the investigatory panel's report and any comments made by the parties. The management will then, in writing, inform the complainant and the person complained against of the next steps which are to occur.

Action where the complaint is upheld

If the complaint is upheld, the matter will be treated as a serious disciplinary issue, and the management will follow the appropriate disciplinary procedures with the relevant employee, contractor or freelance artist, which may lead to disciplinary action up to and including dismissal. If the perpetrator is not an employee – e.g. if he/she/they are a contractor or a freelance artist – other appropriate measures will be taken.

The management may also take other appropriate action to support and protect the victim and/or ensure that similar situations do not arise in the future.

Action where the complaint is not upheld

If the complaint is not upheld but the complainant is found to have acted in good faith, the management may take appropriate measures to support both the complainant and the person complained against. This will include taking appropriate measures to ensure that other parties to the investigation are made aware that the complaint was not upheld.

Where a complaint is not upheld and is found not to have been made in good faith, the complainant will be the subject of disciplinary action. The same principle will apply to witnesses giving evidence in bad faith.

Preservation of rights and prevention of victimisation

Making a complaint under this policy will not affect an employee's statutory rights. No one will be victimised for making a complaint in good faith or for acting in good faith as a witness in an investigation.

Appeals

If either party is dissatisfied with the outcome of the formal complaints procedure, they may lodge an appeal within seven working days of receipt of notification of the outcome of the process.

The reason for the appeal should be outlined in writing to the management. The appeal will be heard by another person(s) of at least the same level of seniority as the original investigator/investigatory panel. The appeal will focus only on the aspect of the case cited by the appellant as being the subject of the appeal.

The grounds of the appeal and any outcome and methodology employed will be appended to the investigation file. Please note that the final report of the investigation itself will not be subject to amendment.

Resolution

Both parties will be given appropriate support and periodical reviews, insofar as is reasonable, after the formal process has been concluded.

External investigation

In any situation where, by reason of the size of the management team, seniority of a complainant or of a person complained against, or for any other reason it is not appropriate for a formal complaint, informal complaint or appeal to be investigated by the management, the National Youth Orchestra of Ireland reserves the right to appoint an appropriate external person to carry out the investigation. Any such external person will carry out his or her functions in accordance with the provisions of this policy, and the National Youth Orchestra of Ireland will give appropriate effect to the findings of such an external person.

This policy may be amended from time to time at the discretion of the National Youth Orchestra of Ireland.