

ACCS, ASTI, IMPACT and TUI Code of Practice for Dealing with Complaints of Bullying and Harassment of Staff in the Community & Comprehensive Schools.

To All Staff

The Association of Community and Comprehensive Schools (ACS), the Association of Secondary Teachers of Ireland (ASTI), IMPACT-The Public Sector Union (IMPACT) and the Teachers' Union of Ireland (TUI) have agreed this code of practice whereby inappropriate or unacceptable behaviour in schools and places of work is dealt with efficiently, effectively and fairly through agreed procedures for the making of and dealing with complaints of bullying or harassment.

ACCS, ASTI, IMPACT and TUI are fully committed to creating an environment within every Community and Comprehensive School that is free of bullying and harassment and which promotes personal integrity and dignity. ACCS, ASTI, IMPACT and TUI have jointly agreed this document to help promote such an environment in all Community and Comprehensive Schools.

The Boards of Management of Community and Comprehensive Schools recognise that bullying and harassment can seriously damage working and social conditions for staff and students. This document clearly outlines behaviour that would be considered inappropriate or unacceptable and provides procedures for the making of and dealing with complaints.

While all staff and students of Community and Comprehensive Schools are responsible for creating a work and study environment free of threat, harassment and intimidation, particular responsibility lies with Board of Management and School Principal to ensure that proper standards are maintained.

This policy is not intended to stifle normal healthy relationships amongst staff but rather is intended to promote a healthy working and learning environment. This Code of Practice has been negotiated between ACCS, ASTI, IMPACT and TUI.

Introduction

ACCS, ASTI, IMPACT and TUI are committed to ensuring a workplace environment which is characterised by mutual respect, tolerance and affirmation.

Harassment and bullying is behaviour that is destructive to a positive working atmosphere and will not be tolerated. Staff in Community and Comprehensive Schools have the right to work in an environment free from any form of harassment, bullying or intimidatory behaviour. If someone experiences offensive behaviour and makes a complaint through the complaints procedure that follows, he/she will be protected from any victimisation resulting from the complaint.

Breach of this policy on bullying and harassment may be grounds for disciplinary action ranging from a verbal warning up to and including dismissal for serious offences.

Bullying and harassment are not 'new', nor is the behaviour that they describe. What is perhaps 'new' is the use of the words in the context of work and the recent recognition of the adverse effects of such behaviour on the victim and the organisation in which he/she works. Employees working in a climate of fear and resentment cannot give of

their best. The adverse effects of bullying often manifest in increased absenteeism, low morale, poor performance levels and staff turnover. The learning institution may suffer a loss of effectiveness and creative input. It is also possible that the image and wider reputation of the centre, school or college will suffer if the situation results in legal proceedings.

Harassment undermines the confidence and dignity of the individuals affected by it. It tarnishes the work atmosphere when bullying is tolerated or is accepted as the norm. Harassment and bullying can occur in any kind of workplace and this policy aims to inform staff of the Community and Comprehensive Schools as to their rights and responsibilities.

Prevention

The best way to eliminate bullying in the workplace is to foster an environment which discourages such behaviour. All employees have an important role in creating an environment where bullying is unacceptable. An individual's responsibility extends to an awareness of the impact of personal behaviour that could cause offence to other staff members and make them feel uncomfortable or threatened. In addition to ensuring that their own behaviour is not in any way offensive, employees should make clear to others that bullying is unacceptable and should support colleagues suffering such treatment.

All management personnel have a particular responsibility to ensure that the workplace is kept free from all forms of harassment and bullying so that staff may go about their work free from the threat of harassment or intimidation. As in all matters of discipline, safety and welfare, it is primarily the responsibility of management personnel to establish and sustain proper standards in the workplace. Community and Comprehensive school management will respond promptly to complaints of harassment or bullying and will deal with all complaints in an expeditious and sensitive manner.

Definition of Bullying and Harassment

Bullying can be defined as a destructive and malicious attempt to target a particular individual or individuals.

- It should not be confused with workplace inter-personal conflicts which may, in themselves, be damaging and stressful, but which do not necessarily constitute bullying.
- It should not be confused with the reasonable conduct of their responsibilities by school/college/centre/management staff.
- It should not be confused with industrial relations difficulties, which should be handled using the appropriate industrial relations procedures.

Bullying and harassment is behaviour that is unprovoked, unwelcome, persistent and is intimidatory or offensive to the recipient. It can take the form of a verbal, physical or psychological attack and can be openly aggressive or subtle. Generally, bullying and harassment is taken to mean repeated and persistent behaviour. The impact of bullying and harassment can be devastating; it can affect a person's work performance, health and personal life outside of work.

Bullying is frequently perceived to be a problem between someone in management and staff. However, bullying can occur between any members of staff. A 'bully' may pick on one person or may turn his/her attention onto a group; a 'bully' may bully a colleague or someone senior to him/her. Groups can bully individuals or other groups. In

addition, the bullying of one student by another, while not specifically dealt with in this document, is a serious offence and should be dealt with under the code of discipline within schools/centres. While the following examples of bullying and harassment are not exhaustive, it is important to be mindful of the fact that if a person behaves inappropriately to another and the victim can make a case that injury has been caused, then in such incidences there is a case for harassment.

Bullying can include:

- Using open aggression, threats, shouting, abuse or obscenities towards a colleague;
- Horseplay, offensive gestures and unwanted physical contact;
- Derogatory or offensive nicknames;
- Subjecting a colleague to constant humiliation, sneering, ridicule or using a person as a constant butt of jokes;
- Maligning or spreading malicious gossip about a colleague;
- Subjecting a colleague to unreasonable scrutiny with persistent unwarranted criticism about minor matters;
- Undermining a person's authority, work or achievements;
- Removing – for no justifiable reason – areas of work responsibility from an individual;
- Setting impossible and unreasonable objectives for an employee, or constantly changing the work requirements without telling him/her and criticising or reprimanding him/her for not meeting these *impossible* objectives or requirements;
- Deliberately withholding information which an employee needs to do his/her job effectively;
- Shunning or marginalising a colleague, excluding him/her from discussions, decisions, etc. or refusing to deal directly with him/her in the workplace;
- Deliberately blocking another staff member's development.

Procedures for Dealing with Complaints of Bullying and Harassment in the Workplace

Purposes of Complaints Procedure

- To provide a fair, consistent and expeditious mechanism to process complaints of bullying and harassment against staff.
- To do so in a manner that affords all concerned full rights in accordance with natural justice.
- To outline the principles for both the employer, the staff member and their representatives in the event of complaints of bullying and harassment being made against staff.

Specifically this procedure may be utilised:

- To investigate complaints of bullying/harassment made by staff against other members of staff.
- To investigate complaints of bullying/harassment made by staff against holders of management responsibility.
- To investigate complaints of bullying/harassment made by holders of management responsibility against staff.

Issues to which these procedures do not apply

- Complaints of bullying/harassment made by staff against students. Such complaints will be treated in accordance with the appropriate student code of discipline/behaviour and/or other agreed codes of practice.
- Matters of the professional competence of teachers which cannot be dealt with at school/centre level or which are referred to the Department of Education & Science for investigation under the terms of circular letter 43/85 or other existing arrangements.
- Anonymous complaints.
- Frivolous and vexatious complaints which do not impinge on the work of the staff member.
- Complaints which are the subject of legal proceedings.

Complaints of bullying/harassment made by a student(s) against a staff member do not fall within the remit of these procedures. Such complaints will be dealt with under appropriate guidelines or other agreed codes of practice.

Note: Claims of harassment under the nine grounds set out in the Employment Equality Act, 1998, may be taken under the provisions of that Act. Section 32 of the Act defines these grounds as follows:

• Sex	• Age	• Disability
• Marital Status	• Family Status	• Race
• Sexual Orientation	• Religion	• Membership of the Travelling Community.

Informal Procedures**Stage I**

- 1.1** A staff member who feels that he/she may have been bullied or harassed should immediately ask the person harassing them to stop. It may be possible and sufficient for the employee concerned to explain clearly to the person engaging in the unprovoked conduct that the behaviour in question is unwelcome, that it offends them, or makes them uncomfortable and that it interferes with their work. A person who wishes to make a complaint (hereinafter referred to as the complainant) should make an appointment and discuss the matter with the staff member (hereinafter referred to as the subject of the complaint) with a view to resolving the complaint.
- 1.2** If the complainant feels that he/she cannot directly address the subject of the

complaint engaging in the unprovoked conduct, they should ask a Designated Person to do so on his/her behalf. In each school two Designated Persons (male and female) shall be appointed by the employer, following constructive and positive consultation and agreement where possible, in line with good industrial relations practice, with the relevant trade union. If the harassment complained of does not cease, or, if in the first instance, it is of a nature that the complainant (following discussion with a Designated Person) considers that it should be reported, the matter should proceed to stage 1.3. The procedures at stage 1 should be concluded within 5 working days of the reporting of the matter to the Designated Person.

- 1.3.1** If the matter is unresolved at the stage 1.2, the complainant should approach the Officer of First Recourse who shall be the Deputy Principal or an other person agreed between the relevant trade union and school management, who would endeavour to resolve the complaint through an informal process as in stage 1.2. If the Officer of First Recourse is a party to the complaint, another agreed person shall be appointed to this position. The procedures at stage 1.3 should be concluded within no more than 5 working days of the reporting of the matter to the Officer of First Recourse.

Formal Procedures

Stage II

- 2.1** If the issue is not resolved at stage I, the complainant should lodge the complaint in writing with the Investigating Officer of Second Recourse hereinafter referred to as the Investigating Officer (normally understood to be the Principal Teacher in a school context. An allegation shall be investigated by the Investigating Officer. Where the Investigating Officer is a party to the complaint, an allegation shall be investigated by a person nominated by the employer in agreement with the ACCS, ASTI, IMPACT and TUI. The Investigating Officer shall be responsible on behalf of management for investigating any complaint of bullying/harassment and recommending action.
- 2.2** Investigations of any complaint will be handled with sensitivity and with due respect to both the complainant and the subject of the complaint. It is understood that all complaints will be investigated with minimum delay. The Investigating Officer should acknowledge and note that the complaint has been received by dealing with the matter as follows:
- (a)** the staff member complained of with a copy of the written complaint and invite his/her written response;
 - (b)** arrange meeting(s) with the parties to the complaint either separately or jointly with a view to resolving the complaint. Such meeting(s) should normally take place within ten working days of receipt of the written complaint as specified in 2.1.
- 2.3.** The complainant and the subject of the complaint may each be accompanied by a colleague or another person (non-legal) of his/her choice. The discretion to afford representation by the relevant trade union/management association to either party rests with that particular teacher trade union/management association.
- 2.4** The Investigating Officer shall convey the outcome of these discussions/investigations in writing to the parties to the complaint within six working days of the meetings referred to in 2.2(b). The Investigating Officer

may:

- Indicate whether or not the matter has been resolved to the satisfaction of all parties or is inconclusive in its findings.
- Where the findings are inconclusive then the school internal investigations end and the parties to the complaint shall be so advised.
- Uphold the complaint on the basis of the available evidence. Notification to both parties shall include reference to the right of the subject of the complaint to appeal the decision to uphold the complaint.
- Deem the complaint unfounded. Notification to both parties shall include reference to the right of the complainant to appeal the decision to reject the complaint.

2.5 Where an Investigating Officer deems a complaint to be valid or to be unfounded and malicious or inconclusive, he/she shall furnish a report to the Chairperson of the Board of Management for the attention of the Board of Management. This report may include a recommendation to the Board of Management that disciplinary sanctions may be considered.

Stage III

- 3.1 (a)** All documentation in respect of the complaint must be furnished to the Board of Management. The Board of Management will convene to consider any documents/reports forwarded for its attention.
- (b)** The subject of the complaint may attend and be accompanied and represented by a colleague or another non-legal person of his/her choice. The discretion to afford representation by ACCS, ASTI, IMPACT or TUI rests with the relevant trade union/management association. The subject of the complaint shall be afforded an opportunity to make a formal presentation of his/her case to the Board of Management.
- (c)** The complainant may be accompanied and represented by a colleague or another non-legal person of his/her choice. The discretion to afford representation by ACCS, ASTI, IMPACT or TUI rests with the relevant trade union/management association. The complainant shall be afforded an opportunity to make a formal presentation of his/her case to the Board of Management.
- (d)** The Board of Management is entitled to seek appropriate expert advice in the course of any investigation in accordance with normal procedures.
- (e)** All meeting/hearing(s) of the Board of Management will normally take place within 15 working days of the receipt, of the Investigating Officer's report.
- (f)** When the Board of Management has completed its deliberations, the Board's decision, together with any recommended disciplinary sanctions should be conveyed in writing to the subject of the complaint and the complainant within 6 working days of the decision being taken. Notification to both the complainant and the subject of the complaint will advise the right of appeal to a Forum

Proposed disciplinary sanctions may include:

- (i)** An oral warning
- (ii)** A written warning
- (iii)** A final written warning
- (iv)** Withholding/refusal of an increment(s)

- (v) Demotion
- (vi) Suspension
- (vii) Dismissal

Generally, the steps in the procedure would be progressive (e.g. oral warning, written warning, a final written warning etc.). However, there may be instances where more serious action is warranted at an earlier stage. A member of staff may be suspended on full pay pending the outcome of an investigation into an alleged breach of discipline. Written warnings as in (f) (ii) will be placed on a staff member's record/file and may be removed after an agreed specified period of time with the employee advised accordingly. All other warnings/sanctions by the Board of Management per (f) (iii), (iv), (v), (vi) and (vii) will be placed permanently on the staff member's record/file. Disciplinary action will be taken in accordance with relevant legislation, collective agreements, contracts and terms and conditions of employment.

Stage IV

- 4.1.1** The Board of Management will afford an opportunity to both the complainant and the subject of the complaint to appeal the report and/or recommendations of the Board of Management of to a Forum. The Board of Management must refer such an appeal to the Forum which shall be composed of two members from a national panel agreed between ACCS, ASTI, IMPACT, and TUI.
- 4.2** The complainant and the subject of the complaint may be accompanied and represented by a colleague or another person (non-legal) of his/her choice. The discretion to afford representation by ACCS, ASTI, IMPACT or TUI rests with the relevant trade union/management association.
- 4.3** The Forum, will formally consider the report and/or recommendations of the Board of Management and make a decision to either ratify, reject or amend the report and/or its recommendation(s).
- 4.4** Any proposed disciplinary sanctions will be processed in accordance with existing appropriate trade union/school management association agreements and relevant legislation.
- 4.5** The decision of the Forum shall be final and *it* shall be communicated to all parties concerned.

Protection and Support

Staff shall be protected from intimidation, victimisation or discrimination for filing a complaint or assisting in an investigation. Retaliation against a member of staff for complaining about bullying/harassment is considered a disciplinary offence. A malicious complaint made by a staff member will be treated as misconduct under the disciplinary procedures herein.

Assistance in the Event of Harassment

Every effort will be made to assist if they so wish, persons who are victims of bullying/harassment to deal with the problem and where it is requested, the services of a counsellor will be made available by the Board of Management. Persons who bully/harass others may be requested to attend counselling to prevent further incidences of harassment occurring. Access to such counselling may be made available by the Board of Management.

At all stages of the Complaints Procedure a clear record should be kept of:

- The investigation undertaken.
- All communications to/by the complainant, the subject of the complaint, the Officer of First Recourse, the Investigating Officer, the Board of Management and the Forum.
- The steps and all the decisions taken.

Where a complaint has been rejected or deemed unfounded, a statement to that effect shall conclude the record in the personnel file of the complainant. All records in relation to a rejected/unfounded complaint shall be removed from the personnel file of the subject of the complaint. A statement of the outcome of the investigation will conclude all other files. Where a statement of the outcome of the investigation confirms the allegation to be true then the statement of outcome shall be placed on the file/record of the person against whom the investigation upheld the complaint.

Review

This complaints procedure shall be reviewed after three years.