



Dignity at Work Policy

(The prevention and resolution of bullying and harassment at work as per code of practice 2020)

Review Dates: This policy will be reviewed annually.

Staff		
Parent's Council		
Student Council		
Board Of Management		

School Details: St. Joseph's Secondary School is a Voluntary Roman Catholic Secondary School under the Trusteeship and the Patronage of the Edmund Rice Schools Trust. The School is grant aided by the Department of Education & Skills and is a single sex (boys) school.

School Management: The Board of Management of St. Joseph's Secondary School is a statutory Board appointed pursuant to the provisions of the Education Act 1998.

Mission Statement

St. Joseph's Secondary school recognises that each pupil who enrolls in our school is unique and has different gifts as well as different needs. It is our wish that our pupils will leave us with enhanced self-confidence and with life skills and attitudes which will enable them to lead lives satisfying to themselves and which may contribute to the betterment of society.

We recognise that a pupil's development is closely linked to a good self-image and so we strive to present the school's total curriculum in such a manner as to allow all to realise their full potential.

We see ourselves as working in partnership with parents to develop the gifts and to meet the needs of all. We regard our school as an educational establishment with a Christian community characterised by care and justice.

Philosophy and context of this policy

As an Edmund Rice School, St Joseph's Secondary School seeks to promote the five key elements of an Edmund Rice School as espoused by the ERST Charter:

1. Nurturing faith, Christian spirituality and Gospel-based values
2. Promoting partnership in the school community
3. Excelling in teaching and learning
4. Creating a caring school community
5. Inspiring transformational leadership.

The Charter seeks to inspire and to challenge the whole school community to work with a shared vision and in a true spirit of Christian partnership; its objective is to enhance the education and development of the students while also supporting the professional and personal growth of all who work within the school.

The Teaching Council Act 2001-15 set out the following standards that apply to all registered teachers regardless of their position.

1. Professional Values and Relationships

Teachers should:

1.3: be committed to equality and inclusion and to respecting and accommodating diversity including those differences arising from gender, civil status, family status, sexual orientation, religion, age, disability, race, ethnicity, membership of the Traveller community and socio-economic status, and any further grounds as may be referenced in equality legislation in the future

1.4 seek to develop positive relationships with pupils/students, colleagues, parents, school management and others in the school community, that are characterised by professional integrity and judgement

1.5 work to establish and maintain a culture of mutual trust and respect in their schools.

3. Professional Conduct

3.6 communicate effectively with pupils/students, colleagues, parents, school management and others in the school community in a manner that is professional, collaborative and supportive, and based on trust and respect

3.7 ensure that any communication with or relating to pupils/ students, colleagues, parents, school management and others is appropriate, including communication via electronic media, such as e-mail, texting and social networking sites.

Rationale:

St. Joseph's Boards of Management recognises that all employees have the right to be treated with dignity and respect at work and the right to work in an environment that is free from bullying/harassment/sexual harassment.

Bullying/harassment/sexual harassment is behaviour that is destructive to a positive working atmosphere.

It is also recognised that the work environment is aimed at providing a high-quality service in an atmosphere of respect, collaboration, openness, safety and equality.

Bullying/harassment/sexual harassment at work by the employer, employees and by other persons engaged in the provision of goods and services to the school will not be tolerated.

In the event of a complaint being upheld against a non-employee, appropriate sanctions may be imposed which could in particular circumstances include termination of contract, suspension of service, exclusion from the premises etc. as appropriate.

The Prevention and Resolution of Bullying at Work Order 2020 (S.I. 674) encourages an informal problem solving and non-adversarial approach as the most appropriate means of addressing allegations of bullying effectively. This approach is also promoted by the Equality Act 1998 (Code of Practice/Harassment) Order 2012.

This 'light touch' approach lends itself to more positive outcomes for individuals, reducing stress and enabling the restoration of collaborative relationships in the workplace.

The intention of this policy is to ensure compliance with S.I.674 and:

- To provide a fair, consistent and expeditious mechanism to process complaints of bullying, harassment and sexual harassment in the workplace;
- To do so in a manner that affords all concerned full rights in accordance with natural justice and fair procedures;
- To outline the procedures in the event of a complaint of bullying, harassment/sexual harassment being made;
- To encourage the use of informal resolution methods and the use of mediation as often and as early as possible to resolve issues or complaints as provided for in this policy

Related policies:

- Health and Safety policy
- Anti-Bullying policy
- Wellbeing policy
- Pastoral Care policy
- G.D.P.R policy
- Internet Acceptable Usage Policy for students and staff
- External Sports Coaches Policy

Relevant legislation:

- **L.R.C Codes of Practice S.I.674** 2020, S.I. No.17/2002, S.I. 208/2012,
- Safety, Health and Welfare at Work Act 2005
- Health & Safety Authority 2007 Code of Practice
- Employment Equality Act 1998-2015
- Teaching Council Act 2001-2015

Scope of this policy:

This policy applies to all members of staff (teachers, S.N.As and ancillary staff) along with persons engaged in the provision of goods or services to the school (e.g. independent contractors, caterers, suppliers).

The policy extends to behaviour which occurs off the school premises, such as at work related social functions or training events, provided there is a nexus with the work of the school and its employees. The code also applies irrespective of whether employees are at their normal place of work, at home or are mobile.

This policy does not apply to:

- Complaints of bullying/harassment/sexual harassment made by employees against students; please see St. Joseph's code of behaviour.
- Matters of the professional competence of teachers which are dealt with in accordance with circular letter 49/2018;
- Incidents between employees which occur outside of the school setting and/or school events and which do not have a nexus to the work of the school and its employees;
- Complaints which are the subject of legal proceedings;
- Complaints which fall outside the definition of bullying/harassment/sexual harassment which are processed through other agreed procedures e.g. the nationally agreed grievance procedure;
- Complaints of bullying/harassment/sexual harassment made by a student(s) against employees. Such complaints will be dealt with under the appropriate disciplinary procedures and/or child protection procedures;
- Complaints by parents. These will be dealt with through other relevant procedures

Nothing in the policy limits the right of St. Joseph's Board of Management to investigate any matter which may relate to bullying/harassment/sexual harassment in circumstances other than where a complaint has been made. All employees continue to have an obligation to cooperate with such investigation.

Bullying: Workplace Bullying

“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”¹

The 2020 (S.I. 674) Code elaborates on these elements. It describes bullying in terms of “*seriously negative targeted behaviours*”, and this behaviour must “*undermine their esteem and standing in a harmful, sustained way*”. It further states that the behaviour must be “*clearly wrong, undermining and humiliating*”. Moreover, in determining if the conduct is bullying, the “*reasonableness’ of behaviours over time must be considered*”.

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

- Manager/supervisor to employee;
- Employee to supervisor/manager;
- One employee to another (or group to group);
- Non-employee to employee; and
- Employee/supervisor/manager to non-employee.

The following behaviours are illustrative rather than exhaustive **examples of types of bullying**:

- Giving employees impossible deadlines to complete tasks;
- Consistently removing work or responsibilities from an employee without explanation or reason;
- Verbal abuse/insults;
- Being treated less favourably than colleagues;
- Intrusion-pestering, spying or stalking;
- Menacing behaviour;
- Intimidation/Aggression;
- Cyberbullying: sending offensive or abusive messages via social media/digital platforms (Appendix 5); it also includes hacking into accounts or spreading rumours online resulting in reputational damage.

Examples of what is not Bullying:

- An isolated incident of inappropriate behaviour may be an affront to a person's dignity at work but, as a once-off incident, is not considered to be bullying;
- Fair and constructive criticism of an employee's performance, conduct or attendance;
- Reasonable and essential discipline arising from the appropriate management of the performance of an employee at work;
- Legitimate management responses in crisis situations which require immediate action;
- Complaints relating to reasonable instructions issued by a manager, assignment of normal duties or relating to terms and conditions of employment.

Harassment:

Harassment is any form of unwanted conduct related to any of the discriminatory grounds outlined below, being 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.

Such unwanted conduct may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words or other material via digital technology.

Harassment includes situations where the employee does not have the relevant characteristic under the discriminatory grounds but the perpetrator believes that s/he has that characteristic.

Further, a single incident may constitute harassment.

The following behaviours are illustrative rather than exhaustive examples of types of harassment:

- Verbal harassment-jokes, comments, ridicule or songs;
- Written harassment-including faxes, messaging, emails or notices or social media;
- Physical harassment-jostling, shoving or any form of assault or other forms of unwanted physical contact;
- Intimidatory harassment-gestures, posturing or threatening poses

- Visual displays (posters/pictures/emblems/badges) which are viewed as offensive.
- Excessive monitoring of work
- Isolation or exclusion from social activities

Sexual Harassment:

Sexual Harassment is any form of unwanted verbal, non-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. Such **unwanted conduct** may consist of acts, requests, spoken words, gestures or the production, display or circulation of written words or other material such as digital media.

Examples of sexual harassment:

- Physical conduct of a sexual nature-this may include unwanted physical contact such as unnecessary touching, patting or pinching or brushing against another employee's body, assault and coercive sexual intercourse;
- Verbal conduct of a sexual nature-this includes unwelcome sexual advances, propositions or pressure for sexual activity, continued suggestions for social activity outside the work place 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 materials, emails, text-messages, faxes or other forms of social media. It may also include leering, whistling or making sexually suggestive gestures; and
- Gender-based conduct - this includes conduct that denigrates or ridicules or is intimidatory or physically abusive of an employee because of his or her sexual orientation such as derogatory or degrading abuse or insults which are gender based.

Examples of what is not Harassment/Sexual Harassment:

- Complaints that relate other than to the nine grounds under the Employment Equality Acts 1998/15 (Appendix 4).
- Fair and constructive criticism of an employee's performance, conduct or attendance;
- Reasonable and essential discipline arising from the appropriate management of the performance of an employee at work;
- Legitimate management responses in crisis situations which require

immediate action;

- Complaints relating to reasonable instructions issued by a manager, assignment of normal duties or relating to terms and conditions of employment.

It should be noted that it is up to the employee/person to decide what behaviour is unwelcome irrespective of the attitude of others.

Harassment & sexual harassment are subjective and it is the perception of the victim that determines if the conduct is improper.

- Investigations will take due account of the impact of the behaviours on the recipient.
- The Employment Equality Acts 1998 - 2015 do not prohibit all relations of a sexual or social nature at work. To constitute harassment/sexual harassment the behaviour complained of must firstly be **unwelcome**.
- It is the unwanted nature of the conduct which distinguishes harassment/sexual harassment from behaviour which is welcome and mutual.
- The fact that an individual has previously agreed to the behaviour does not stop him/her from deciding that it has become unwelcome.

In addition, to constitute harassment/sexual harassment under the Employment Equality Acts 1998 - 2015, the behaviour must have the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for that person

Key points:

- The reasonable and essential discipline arising from the good management of the performance of an employee at work does not amount to bullying/ harassment/sexual harassment (including the supervision of work and performance related discussions).
- Similarly, actions taken which can be justified as regards the safety, health and welfare of employees do not amount to bullying/harassment/sexual harassment.

- For example, an employee whose performance is continuously signalled at a level below required targets may feel threatened and insecure in his/her work but this in itself does not indicate bullying/harassment.
- In addition, it should not be confused with workplace interpersonal conflicts, which do not necessarily constitute bullying/harassment/sexual harassment.

Roles/responsibilities:

- This policy enables school management to fulfil its duties under section 8 (2) (b) of the 2005 Act as regards '*managing and conducting work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behavior likely to put the safety, health and welfare at work of his or her employees at risk*'.
- The Board of Management of St. Joseph's Secondary School is committed to honoring the following responsibilities which are assigned as a result this order:
- To provide information to employees on induction, e. g copy of policy in staff handbook;
- To provide examples of best practice by treating all in the workplace with courtesy and respect.
- To provide training/instruction on this policy
- To ensure a risk assessment is conducted when this policy is being reviewed.
- To promote awareness of this policy;
- To be vigilant for signs of bullying/harassment/sexual harassment at work and take action before a problem escalates;
- To deal sensitively with employees involved in a complaint whether as complainant or respondent;
- To ensure that the complainant and respondent are treated fairly
- To explain the Dignity at Work procedures to be followed if a complaint is made. A copy of the procedures is provided in the staff handbook, at induction and through other suitable channels;
- To ensure that an employee making a complaint is not victimised for doing so; and monitor/follow-up after a complaint is made.

The policy also applies to employees in relation to their duties under section 13 (1) (e) of the 2005 Act to *'not engage in improper conduct or behaviour that is likely to endanger his or her own safety, health and welfare at work or that of any other person'*.

- Employees have responsibility in creating and contributing to the maintenance of a work environment free from bullying/harassment/sexual harassment or conduct likely to contribute to same
- All employees carry responsibility for their own behaviour and have a positive duty to comply with this policy and to treat all colleagues with respect and dignity.
- Employees also have an obligation to cooperate with the investigation of complaints of bullying/harassment/sexual harassment and to cooperate by providing any relevant information when an allegation of bullying at work is being looked into whether in an informal or formal stage.

Management will ensure that this policy is implemented in an effective and timely manner. It is important to note that availing of the processes in this policy in no way effects the complainants' right to make a statutory complaint under the Employment Equality Acts 1998 to 2015.

Complaints and Resolution procedures

- While it is a decision for the complainant as to whether s/he invokes this Policy or not, in most cases, the informal route and specifically mediation, is the preferred approach of St. Joseph's Secondary School and unions representing staff.
- Whether formal or informal, a complaint must be made within six months of the latest incident(s) of alleged bullying/harassment/sexual harassment. In exceptional circumstances, the six-month time limit may be reviewed. The decision on whether to admit an allegation under this Policy outside of this time limit rests with the Principal.

Complaints will be treated with fairness, sensitivity and respect.

- G.D.P.R. will be applied and confidentiality will be maintained throughout, consistent with the requirements of a fair investigation.
- In the course of investigating the complaint, no assumptions shall be made about the culpability of the alleged perpetrator.
- Employees who make complaints of bullying/harassment/sexual harassment will not be victimized, even if the complaint is not upheld.
- Making a complaint under this policy will not affect an employee's statutory rights or entitlement to make a claim to the Workplace Relations Commission.
- A claim to the Workplace Relations Commission must be made within six months of the alleged occurrence of harassment/sexual harassment. The time limit may be extended up to a maximum of 12 months if the complainant has demonstrated reasonable cause for the delay.

Informal Procedure

Stage I – Informal Procedure using either:

- Self-initiated attempt at informal resolution
or
- Discussion with a contact person
or
- Assisted attempt at informal resolution with the designated person
or
- Mediation

Self-Initiated Attempt at Informal Resolution:

- An employee (the complainant) who feels that he/she may have been subjected to bullying/harassment/sexual harassment should immediately ask the person engaging in this behaviour (the respondent) to stop.
- It may be possible and sufficient for the complainant to explain clearly to the respondent that the behaviour in question is

unwelcome, that it offends them or makes them uncomfortable and that it interferes with their work.

- A complainant should make an appointment and discuss the matter with the respondent with a view to resolving the complaint. In many situations this approach is effective, as direct communication between the complainant and the respondent (the “Parties”) can help to build both understanding and awareness. It can often be the case that a person is not aware of their behaviour, that it is unacceptable or the impact which it has on the other person.

Resolution at this stage could involve an apology from one person to another and/or a clarification of the circumstances from one person to another and/or an agreement that the unacceptable behaviour will not happen again

This will be the Chairperson of the Board of Management where the Principal is a party to the complaint.

Or

Discussion with a Contact Person:

- In circumstances where the complainant finds it difficult to approach the respondent directly, he/she may discuss the situation with one of the school’s Contact Persons. In this situation, the Contact Person should listen patiently, be supportive and discuss the various options with the complainant. It is to be noted that speaking to the Contact Person is not the same as making a formal complaint.

See further details on the role of the Contact Person in Appendix 1.

Or

Assisted Attempt at Informal Resolution with the Designated Person.

- If the matter continues unresolved, the complainant may approach the school’s Designated Person who shall be at Deputy Principal level.
- The Designated Person will provide the complainant with this agreed Policy and advise him/her of the availability of the Employee Assistance Service.
- The Designated Person will encourage the complainant and the respondent to engage in meaningful dialogue in an effort to resolve the matter or gain a level of agreement within 10 school days. The Designated Person in this instance could facilitate

resolution by getting the Parties together or, alternatively, just speak to the alleged offender.

Or

Mediation:

- If the preceding steps have not resulted in a resolution the Designated Person will consider whether the matter should be referred to mediation.
- If the Designated Person (having consulted with the Principal), decides that mediation is appropriate, subject to the agreement of the Parties, a mediator will be organized by as soon as possible. In the first instance, the mediator will be a professional mediator from the Workplace Relations Commission (WRC), if available.
- The use of mediation is strongly advocated as a process of resolving complaints by seeking to arrive at a solution through agreement between the Parties rather than proceeding to the formal procedure of investigation.
- Mediation is particularly suited to workplace disputes where frequently the Parties will continue to work together into the future.

The Mediation Process

Mediation is a voluntary, confidential process that allows two or more disputing parties to resolve their conflict in a mutually agreed way with the help of a trained mediator. The objective of mediation, which is available without making a formal complaint, is to resolve matters speedily and confidentially without recourse to a formal investigation. Mediation aims to minimise conflict and stress for the Parties.

While all matters related to the mediation process remain strictly confidential to the Parties themselves, the mediator will advise the Designated Person of the date the mediation concludes and whether the mediation was successful or not

Points to note:

- While a complainant is encouraged not to skip stages, he/she may decide, for whatever reason, to bypass the informal procedure. Choosing not to use the informal procedure should not reflect negatively on a complainant in the formal procedure.
- Nothing in the informal procedures, including mediation, inhibits the complainant from invoking the formal procedures.

- Employees should be aware that if an allegation is deemed sufficiently serious, it may be necessary to commence an investigation even if an employee is not prepared to proceed with a formal complaint.

Formal Procedure

Stage 2 - Formal Procedure – Initial Internal Examination

The complainant may refer the matter to the formal procedure:

- If the matter is unresolved in the informal stage; **or**
- the employee wishes it to be treated formally; **or**
- the alleged complaint is too serious to be dealt with in the informal procedure; **or**
- the behaviour complained of continues after the informal procedure has been followed.

The complainant shall lodge the complaint with the Principal.

- If the Principal is a party to the complaint, a member of the Board of Management will replace the Principal in carrying out this role in the Formal Procedure.
- The complaint should be in writing, signed and dated. The complaint should be confined to precise details of the alleged incident(s) of bullying/ harassment/sexual harassment, including the dates of such incident(s).
- The complainant will also furnish whatever supporting documentation she/he may wish to rely on to support his/her case.
- The complaint will be subject to an initial **examination** by the Principal or where applicable a member of the Board of Management (where the Principal is a party to the complaint), with a view to **determining** an appropriate course of action.
- The respondent will be notified in writing of the nature of the complaint, given a copy of the allegation, informed of his/her right to be accompanied by a work colleague or an employee/trade union representative, if so desired, at any meetings with the Principal, that s/he will be given an opportunity to fully respond to the allegations and to present his/her own case.

The Principal in progressing the complaint, may seek to ascertain whether a full and confidential investigation is the only way forward or, whether some other method might be recommended prior to initiating a full investigation of the complaint.

In order for the complaint to be addressed in a way other than full investigation, the Principal will consult with both/all Parties to the complaint.

- An appropriate course of action at this stage, for example, could be exploring a mediated solution or a view that the issue can be resolved informally.
- Should these approaches be deemed inappropriate or inconclusive, a formal investigation of the complaint will take place in accordance with Stage 3 of this Policy.
- The complainant will provide the names and contact details of witness(es) to specific incident/s (if any) in advance of the commencement of Stage 3 of this policy.

The process outlined above should be completed within a 30 working-day timeframe.

If both parties agree to mediation/informal resolution, the formal process will be put on hold until the outcome of mediation/informal resolution is known.

- If the Principal is a party to the complaint, a member of the Board of Management will replace the Principal in carrying out this role.

Stage 3 – Formal Procedure – External Investigation

The Principal will recommend for the complaint to be investigated by an Investigator appointed from the panel established by the Office of Government Procurement (the “**Investigator**”).

- The Investigator will be appointed as soon as possible by the Board of Management.
- Following his/her appointment the Principal will inform the Parties. The Principal will refer the complaint and any relevant documentation, including the names of any witnesses, to the Investigator as soon as possible following receipt of the complaint.

- The Parties may normally be accompanied by a work colleague or an employee/trade union representative if so desired at meetings conducted by the Investigator.
- As this is not a legal process, legal representation is not normally permitted at meetings. It will be a matter for the Investigator to determine in his/her sole discretion whether or not there are exceptional circumstances whereby a request by the respondent to have legal representation will be permitted. If the Investigator permits legal representation as provided for herein, the sample Terms of Reference in Appendix 2 will be deemed to be accordingly amended.
- The investigation will be conducted in accordance with Terms of Reference, consistent with the sample Terms of Reference in Appendix 2 and this Policy.
- The Investigator shall investigate the complaint and the investigation will be conducted thoroughly, objectively and with sensitivity. Confidentiality will be maintained throughout to the greatest extent possible, consistent with the requirements of a fair investigation, fair procedures, due process and with due respect for the rights of the Parties.
- The Investigator will meet with the Parties and any witnesses or relevant persons with a view to establishing the facts surrounding the allegation(s).
- The Investigator will furnish a copy of the **draft Investigation Report** to the Parties. The Parties will be afforded the opportunity to propose specific amendments (in writing) on matters of fact to the draft Investigation Report.
- If the Parties choose to provide a written response/submission on matters of fact, same must be furnished to the Investigator within 10 school days of the date the report was sent to the Parties.
- If the Principal is a party to the complaint, a member of the Board of Management will replace the Principal in carrying out this role, unless both Parties agree otherwise.

Communication of Outcome:

- Communication must be done in a sensitive and fair manner.
- All parties directly involved in the complaint are entitled to know if the complaint was upheld in whole or in part, and the reasons for any such decision.
- However, specific details regarding any disciplinary action being taken against any particular party on foot of the process are confidential. Other parties are not entitled to receive this information as part of the communication of the outcome.

The Investigator will then issue the **final written Investigation Report** (the “Investigation Report”) to the Parties and to the Principal determining whether the complaint has been upheld or not. This Report will be prepared in accordance with Appendix 3.

The Investigator shall make findings of fact and may make recommendations in his/her report pertinent to the issues raised. S/he will indicate whether the matter should be dealt with in accordance with the Disciplinary Procedure and if so, the stage of the Disciplinary Procedure.

Appeal Process/Right of Appeal:

Either party may appeal the findings of the Investigation Report to a nominee of the Workplace Relations Commission (WRC).

- The appeal, which must be in writing, must be lodged with the Secretary to the Board of Management **within 15 days of the issue of the Investigation Report** to the Parties and the ground(s) of appeal should be clearly stated in the appeal.
- The appeal to the nominee of the Workplace Relations Commission is a procedural appeal and the sole ground on which an appeal can be taken is that the Investigator did not adhere to the Terms of Reference.

“should focus on the conduct of the investigation in terms of fair process and adherence to procedure.”

- The appeal is not to re-investigate the original complaint, rather, the nominee of the Workplace Relations Commission will consider the appeal on the ground(s) specified in the appeal provided it relates to an alleged failure by the Investigator to adhere to the Terms of Reference.

- The Investigator may be required to make him/herself available to the nominee of the Workplace Relations Commission to clarify procedural matters.
- The nominee of the Workplace Relations Commission will either dismiss the appeal, in which case the Investigation Report will stand or uphold the appeal, in which case a new Investigator will be appointed and the complaint will be investigated *ab initio* under the Formal Procedure.
- If the Principal is one of the Parties, the Investigation Report will issue to the Chairperson of the Board of Management.

Disciplinary Procedures:

- Should the Investigation Report uphold the complaint and direct that the matter be dealt with under the disciplinary procedures, any disciplinary action will be in accordance with the agreed disciplinary procedure which may lead to disciplinary sanctions up to and including dismissal.
- Retaliation taken against an employee for making a bullying/harassment/sexual harassment complaint or against a witness is considered a disciplinary offence.
- A vexatious and/or malicious complaint made by an employee will be dealt with through the disciplinary Procedures¹⁹.
- The Investigator shall, if required, make him/herself available in the event of disciplinary action being considered.

Support:

The Board of Management will ensure that the parties will receive support in the short-term (for example, counselling or other intervention as appropriate) and regular review following the investigation. All employees have access to the Employee Assistance Service.

Timeframe

Where situations arise where the timeframe needs to be changed, it will be done in consultation with the Parties.

Communication/Training/Awareness:

All personnel who have a role in either the informal or formal procedure will be made aware of this Policy and other relevant policies and procedures, and will receive appropriate training.

School management will make this Policy available to all employees in the school.

This policy was ratified on _____

Signature: Chairperson of the Board Of Management _____

Date: _____

Signature: Principal & Secretary to the Board of Management _____

Date: _____

Appendix 1:

Contact Person(s):

Contact person(s) in a school environment are employees of the school who have volunteered and received training/direction to be the point of first response for staff who need assistance in resolving an issue in the workplace relating to alleged affronts to personal dignity.

If possible, there should be more than 1 contact person in each school. The contact person(s) will normally not be a member of the senior management team.

The role of the Contact Person is to:

- Actively listen and provide support allowing the concerned staff member to speak about their experience.

Provide the complainant with a copy of this Policy, explain the procedures, the various options available and help the person identify whether their complaint fits the definition of this Policy.

- Help the employee to clarify what s/he is experiencing and to empower the employee to decide what course of action, if any, s/he may wish to take.

The Contact Person:

- May not approach the alleged respondent/complainant on behalf of the person s/he is supporting.
- May not act as an advocate or representative on behalf of the person s/he is supporting nor can s/he direct the person as to the best course of action to take.
- The Contact Person has a listening brief and is a reference point for the complainant. S/he does not get involved in any other way in the complaints procedure and is not an advocate for either party' (HSA Code of Practice 2007).
- The Contact Person will treat all discussions with persons who seek their support as completely confidential and will not be requested to disclose information to a third party.
- However, where the Contact Person believes that there is a potential risk to an employee, for example a threat to their health and/or safety, s/he may seek support from school management.
- The list of trained contact person(s) is available on the staff noticeboard.

Appendix 2:

Sample Terms of Reference for the conduct of a formal Investigation

The Investigator will:

- Provide a Statement of Independence.
- Investigate the complaint.
- Conduct the investigation in accordance with the Protocol outlined below/this Policy.
- Afford fair procedures and natural justice to the Parties.
- Issue an Investigation Report which makes findings of fact and which may make recommendations as provided for herein. The findings will be based on the evidence presented:
 - Provide rationale related to the evidence presented, for the finding/s in respect of each element of the complaint.
 - Determine whether each element of the complaint is upheld or not upheld.
 - Provide an overall finding concluding whether or not bullying/harassment/sexual harassment occurred and the extent, if any, to which it occurred.
- Indicate whether the matter should proceed to the Disciplinary Procedure and if so, the stage of the Disciplinary Procedure at which the matter should be dealt with.
- Adhere to the timeframes in line with the Dignity at Work Policy and conduct the investigation as expeditiously as possible. Issue the Investigation Report to the parties to the complaint and to the Principal²¹ no later than 90 working days from the date the service contract is signed. The time limit advised with respect to the 90 working days may be extended only in very extenuating circumstances subject to the discretion of the Board of Management and the Investigation company.
- Operate within the agreed budget for the discharging of the investigation under the Contract for Services with the Board of Management of the school.

PROTOCOL FOR THE CONDUCT OF THE INVESTIGATION

This protocol should be followed.

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

Scope:

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

Records:

- A recording secretary shall accompany the Investigator at all meetings. The Investigation will be conducted in line with this Policy

Investigation Process:

- The Complainant shall lodge the complaint which should be in writing, signed and dated. The complaint should be confined to precise details of the alleged incident(s) of bullying/harassment/sexual harassment, including the dates of such incident(s) and the names of any witness(es). The Complainant will also furnish whatever supporting documentation she/he may wish to rely on to support his/her case.
- The Respondent will be furnished with the complainant's documentation, and with all other information upon which the Investigator may rely on in arriving at a decision, in advance of the meeting with the Investigator.
- In the course of the Investigation, the Investigator will meet with the Parties and all witnesses.
- Failure by any party to sign off on the Investigator's minutes of a meeting within the specified timeframe shall not in any way

invalidate the record, prevent the record being exchanged with the other party or delay the Investigation in any way.

- The Investigator will determine in his/her sole discretion whether to allow cross examination of the complainant and/or witnesses by the respondent. If so, these sample Terms of Reference will be deemed to be amended by the Investigator accordingly. Where the Investigator allows such cross examination to proceed, it will be on such terms as s/he deems fit, including but not limited to, who may conduct the cross examination.
- The Parties may be accompanied by a work colleague or an employee/trade union representative, if so desired, at any meetings during the formal procedure.
- As this is not a legal process, legal representation is not normally permitted at meetings. It will be a matter for the Investigator to determine in his/her sole discretion whether or not there are exceptional circumstances whereby a request by the respondent for legal representation will be permitted.
- If the Investigator permits legal representation in accordance with this Policy, these sample Terms of Reference will be deemed to be amended by the Investigator accordingly.
- Refusal or failure to co-operate with the investigation by any party will not prevent the Investigator(s) issuing the Investigation Report based on the information available.

Interviewing a complainant:

The Investigator will:

- Advise that the investigation will be conducted with due regard to confidentiality consistent with the requirements of a fair investigation, fair procedures, natural justice and due process;
- Ask the complainant to supply the name/s and contact details of any witness who has relevant information in relation to his/her specific complaint/s;
- Forward minutes of the investigation interview(s) to the complainant and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute;
- Indicate that the acceptance of any proposed amendments is a

matter for the Investigator;

- Forward the final minute(s) of the meeting to the complainant
-

Interviewing a witness; the Investigator will:

- Invite the nominated witness to a meeting;
- Advise the witness that s/he is entitled to be accompanied by a work colleague or an employee/trade union representative at the investigation interview/s but it would not be appropriate for such an accompanying person to be a party to the investigation or another witness who will also be interviewed or making a statement during the course of the investigation;

At the meeting, inform the witness that:

- The investigation will be conducted with due regard to confidentiality consistent with the requirements of a fair investigation, fair procedures and natural justice.
- A copy of his/her statement will be furnished to the parties.
- That s/he should not discuss the complaint or any details of it, the investigation or other related matters to the complaint with any other party.
- In setting the background to the complaint, witnesses should only be given sufficient information to allow the Investigator determine what occurred in relation to the allegation;
- The questions to be asked of the witnesses should include:
 - What precisely occurred?
 - Who was involved?
 - When the incident/s occurred?
 - Where the incident/s occurred?
 - Whether there were any other witnesses to the event/s?
- Forward the minute of the investigation interview to the witness and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute;
The acceptance of any proposed amendments is a matter for the Investigator;
- Forward to the witness the final minutes of the witness' interview, setting out the basis on which any proposed

amendments were rejected;

Witness Conflicting Accounts:

- Where the Investigator is faced with two conflicting accounts of the alleged incident and where no witnesses are available or where their evidence is not persuasive, the case rests upon which version of events the Investigator considers the more credible. In such instances, the balance of probabilities will apply and a rationale must be provided;
- Should the Investigator become aware that any attempt has been made to persuade any witness to change his/her testimony, the matter should be reported immediately to the Chairperson of the Board of Management of the school;
- Any such interference is regarded as a serious breach of discipline and will be subject to disciplinary action.

Interviewing a respondent:

The Investigator will:

- Advise that the investigation will be conducted with due regard to confidentiality consistent with the requirements of a fair investigation, fair procedures, due process and natural justice;
- Ask the respondent to identify the name/s and contact details of any witness who has relevant information in relation to the specific complaint/s;
- Afford the respondent the opportunity to respond to the allegations and to state his/her case fully;
- Forward the minute of the investigation interview to the respondent and provide an opportunity to propose specific amendments (to be submitted in writing) on matters of accuracy or fact to the minute;
- The acceptance of any proposed amendments is a matter for the Investigator;

- Forward the final minute of the meeting to the respondent, setting out the basis on which any amendments proposed were rejected.

Further action:

- On completion of all interviews, each party to the complaint will be provided with a copy of the minutes of all interviews conducted (including interviews with witnesses).

Draft Report

- A draft Report will be prepared by the Investigator. The parties to the complaint will be afforded the opportunity to propose specific amendments (in writing) on matters of fact to the draft Investigation Report.
- These must be furnished to the Investigator within 10 school days of the date the report was sent to the Parties.
- Having considered the written submissions (if supplied), the Investigator will review and provide a rationale as to the acceptance or rejection of the items raised in a proposed submission on matters of fact.
- The decision to accept/reject such items in a submission from either party to the complaint is a matter for the Investigator.

Appendix 3:

Final Investigation Report

- Once the Investigator has gathered all relevant information that is available, an analysis by the Investigator leading to conclusions must be performed;
- The Investigator should assess the credibility of each of the Parties and each witness and determine what is more likely to have occurred;
- On the findings of fact, the Investigator should then determine whether on the balance of probabilities what has happened constitute violations of applicable legislation and/or organisational policy;
- The investigator may make recommendations as provided for herein:

The Investigation Report must include, but is not limited to the following information, as appropriate to the specific circumstances:

- Legal and policy basis of the investigation, as well as applicable professional standards;
- Description of the Investigator's engagement and background of the complaint;
- Statement of independence of the Investigator;
- Summary of complainant's allegations;
- Summary of respondent's response to allegations;
- Listing of information gathered, including interviews held and documentation reviewed;
- If any witnesses or leads provided by the Parties were not interviewed/pursued, an explanation as to why not;
- Assessment of credibility for each party and each witness based on the balance of probability;
- Other relevant information to be determined by the Investigator;
- Investigator's findings of fact;
- Investigator's rationale in respect of each element of the complaint and determination and whether each element of the complaint is upheld or not upheld. In addition, an overall finding will be provided and a finding in respect of the extent to which, if any, bullying/ harassment/sexual harassment occurred.
- The Investigator will indicate whether the matter should proceed to the Disciplinary Procedure and if so, what stage of the Disciplinary Procedure;
- The time limits advised may be extended only in very extenuating circumstances subject to the discretion of the Chairperson of the Board of Management.

Appendix 4: What to do if You Feel You are Being Bullied? (HSA.ie)

What does 'feeling bullied' mean?

- Feeling put upon?
- Unfairly treated?
- Hurt?

You are not necessarily being targeted or being bullied just because you feel any or all of the above.

When we feel bad, we see events less clearly. We can be biased and blame others.

Because we feel vulnerable, we might misinterpret reasonable behaviour for something else, something targeted against us personally. Think about this possibility.

What to do?

First of all, assess what is happening *objectively*.

Try to avoid assuming everything done to you by a person has the same motive. Try not to connect a sequence of events which may not be connected.

- Read up on the topic and try to be clear – what policies are in place.
- Is the behaviour upsetting you due to other or personal reasons?
- Is the criticism warranted, for instance is work-related non-performance the issue
- Is it a personality 'clash'? Are you both just spoiling for conflict?
- Is it a repeated pattern of behaviour, picking you out, offensively?

If you agree with the last bullet above, you may be the target of bullying and you can take some action.

- Approach the person and point out the behaviour(s). Say it's hostile and offensive.
- Clearly state to them that you wish them to stop as you would like a good working relationship with them.
- If you are too frightened to do this, make a brief note of the behaviour and its effects and seek out someone to bring the matter to - someone in HR, a manager or a representative.

*Remember - to accuse someone of bullying is a serious thing and so should only be done carefully and with a reliable set of circumstances indicating that the bullying is occurring.

Keep confidentiality; there are consequences for defaming or libelling a person.

Gathering evidence:

Once you have formed the opinion that you are being bullied, keep copies of any relevant materials (notes, emails etc)

Then seek out your organisation's Anti Bullying Policy and follow its guidelines.

1. Report the matter to someone in a HR or management position or to a Contact Person, if these exist within your workplace.
2. The matter should be dealt with as early as possible so hostilities don't grow, and preferably at first it should be dealt with informally, with the aim of resolving and stopping the activities, and moving on.
3. If this is not successful, mediation may be required. While both parties must agree in order for any mediation to be successful, it is a very important step and should not be dismissed out of hand. Skilled professional mediation should be used.
4. Finally, if other attempts to satisfy the situation fail, a formal investigation of the facts may be required. Guidance for investigations can be found in our [Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work 2021](#)

Alternatively, or simultaneously, you can seek advice by contacting the following:

(1) [The Workplace Contact Unit](#) at the HSA: Telephone: 0818 289 389 or email: contactus@hsa.ie

If the problem at your workplace is the lack of an adequate policy on bullying you may register a complaint with our Workplace Contact Unit. When we get it, we will contact your employer by letter asking for their anti-bullying policy. We will send this to you. This can be done without your employer knowing who you are.

You can see for yourself, then the procedures in the policy and raise your particular problem with your employer. The policy should provide for prompt, fair, confidential and effective resolution.

The HSA is not in a position to get involved in mediating or investigating your bullying complaint but we can use our statutory powers to ensure that:

- A suitable policy is in place
- Complaints are investigated in accordance with the terms set out in the policy, in line with the Duty of Care of employers with regard to Section 8 2. A and b of the 2005 Act.(link to section please)

(2) Workplace Relations Commission (WRC) Tel: (059) 9178990 or Lo-Call: 0818 80 80 90

A number of individual bullying grievances have been dealt with through mediation by the Advisory Development and Research Services over the past number of years.

The Adjudication Service also deal with such disputes – they are independent adjudicators and they investigate disputes referred to them by individuals or small groups of workers under specific legislation. Their findings are issued to the parties in the form of non-binding recommendations. **This service deals with the vast majority of issues around bullying.**

If you feel that, because you raised a bullying issue, you are then penalised at work, you should take this matter, through Section 27 of the HS&W at Work Act 2005, to the RC service.

Contact the Workplace Relations Commission for information on employment legislation on Tel: (059) 9178990 or Lo-Call: 0818 80 80 90 or email them at customerservice@workplacerelements.ie.

In the case of a possible unfair dismissal,(including Constructive Dismissal) this information would include informing the person where to go to receive advice (e.g. a Citizen's Information Centre or a solicitor) and also information on how to take a case either to The Adjudication Service or to the WRC as above.

The Employment Equality Act, 1998 and Equal Status legislation outlaw discrimination in employment, vocational training, advertising, collective agreements, the provision of goods and services and other opportunities to which the public generally have access on nine distinct grounds. The Irish human Rights and Equality Commission oversees this area. Irish Human Rights and Equality Commission ([IHRC](#))

- Gender
- Marital status
- Family status
- Sexual orientation
- Religion
- Age
- Disability
- Race
- Membership of the traveller community

Appendix 5:

Social Media and the Workplace: A guide

Getting caught reading a newspaper at work when one should be otherwise engaged would probably lead to no more than a rap on the knuckles, unless of course you were driving a bus at the time. Mis-using social media tools such as Twitter and Facebook, on the other hand, could lead to disciplinary action, and even dismissal.

In a recent study carried out by Peninsula, 67% of employees admitted to checking their social networking sites during work and 73% of Irish employees have admitted to bad mouthing their employers. So how can it become a disciplinary issue?

What type of posting could get me into trouble?

If the content contains a disclosure of confidential information, defamation and/or bullying and harassment of colleagues or others then you are on a sticky wicket. In UD643/2007 (An Employment Appeals Tribunal [EAT] case) a shop employee posted derogatory comments about her manager on the company Bebo site, without naming the shop or the manager. The employee was sacked and the Tribunal subsequently found that the sanction was disproportionate. The award was limited to €4,000 on the basis that the employee had contributed significantly to her own dismissal by posting the comments on the site.

What if I post comments outside of working time?

The same effect, I'm afraid. In UD933/2010 (an EAT case) the posting of electronic messages on an employee's Facebook which were directed towards a member of management amounted to a breach of trust of such significance as to render untenable her employment. The Tribunal found that there was clear reputational damage to the manager concerned in this case. Issues like reputational damage and how wide the scope of the posting was, e.g. to a limited or wider audience, will be examined by a Tribunal when determining the severity of the sanction.

The above examples relate to derogatory comments directed towards members of management but similar outcomes have been reported with regard to derogatory comments directed at fellow employees.

What is the advice on using social network such as Twitter and Facebook sites in relation to my employment?

Some employments require employees to use these sites for marketing and communication purposes and this is alright as long as the employee exercises caution and sound judgement in doing so. Avoid referring to your employment if you fall outside the above category and confine your comment to interests other than your job. The most innocent of postings can get you into trouble. For example, the posting of photographs of colleagues at Christmas parties or other social occasions without their permission may have an unexpected outcome. The chances are that some people will not want the world seeing how they behaved and will possibly make a complaint of inappropriate posting. Your innocent posting to the world at large suddenly becomes a work-related disciplinary issue. Seek out the company

internet policy and try to avoid the pitfalls that lay within. The union shop steward should have a copy of this.

Be careful with your general postings if you see yourself seeking promotion or changing jobs at some stage. Most companies now check social media pages to get a sense of the real you; of course it's the one you haven't dared to put on your CV. Remember a verbal warning lasts for about twelve months on your record. Facebook lasts forever!

Appendix 6: Dignity at Work Charter

Dignity at Work Charter



St. Joseph's Secondary School

Adopts the HSA Dignity in the Workplace Charter

Endorsed by IBEC and ICTU and adopted by JMB and ASTI

JMB and ASTI "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.

All individuals, whether directly employed or contracted by us, have a duty and a responsibility to uphold this Dignity at Work Charter.

Supervisors, Managers, and Trade Union Representatives where applicable in the workplace have a specific responsibility to promote its provisions."

Signed: _____ Date _____

Chairperson St. Joseph's Board of Management

Signed: _____ Date _____

A.S.T.I School Steward

Signed: _____ Date _____

T.U.I. School Steward

Signed: _____ Date _____

On behalf of IMPACT

Signed: _____ Date: _____

On behalf of FORSA

Signed: _____ Date _____

On behalf of S.I.P.T.U