



Irish National Opera

Irish National Opera Dignity in the Workplace Policy

Updated August 2023

Irish National Opera is committed to providing an environment which is free from any form of bullying, harassment, sexual harassment and victimisation. All company members (artists, stage management, technical personnel and anyone else involved in a production) and employees are expected to comply with this policy. INO will take appropriate disciplinary action, including dismissal, against company members and employees who violate this policy. Please see Appendix 1 for definitions of bullying, harassment, sexual harassment and victimisation. This policy is based on the SAFE TO CREATE Code of Behaviour and Dignity in the Workplace programme.

Complaints Procedures

By law, the employer must have a policy, procedure, or process in place to deal with incidents of bullying and harassment (including sexual harassment) within the workplace, or in the context of your work (including social events connected to your employment). This can be a Dignity at Work Policy, but may also be outlined within terms of employment/engagement, in an employment handbook, or a Bullying and Harassment Policy.

The employer has both Informal and Formal Procedures to deal with any complaint made. It is best practice that all informal resolution avenues should be contemplated and where appropriate, exhausted before a formal process is invoked. However, if the nature of the complaint is considered too serious the Informal Procedure may not be appropriate, and the Formal Procedure is required. In any event, a complainant is not required to use the Informal Procedure and there can be no sanction whatsoever for opting to use the Formal Procedure from the outset.

All complaints received must be treated seriously, sensitively, and with due confidentiality. Complaints must be dealt with as soon as is practicable. Strict confidentiality and proper discretion must be maintained by all parties, as far as is possible. Any finding of victimising, bullying, or harassing behaviour should be regarded as a serious breach of discipline and subject to the disciplinary code of the employer.

On commencement of their employment or engagement, it is useful for employees/workers to familiarise themselves with the approach their employer has put in place to deal with incidents of bullying, harassment, and sexual harassment.

It is recommended employees/workers who believe they have been subject to abuse make written notes for themselves of their experience(s): what happened? Where? When? How they felt? Any witnesses? In the event that the Formal Procedure is invoked these notes will be important.

In both the Formal and Informal Procedures, the complainant is entitled to have a representative of their choice present with them, at any meetings arising in the course of the proceedings, on the clear understanding of confidentiality by anyone accompanying the complainant.

Informal Procedure

It is preferable for all concerned that complaints of bullying, harassment, or sexual harassment are dealt with informally. This is especially encouraged at an early stage of unacceptable behaviour, as it can help to stop it continuing or escalating. Ongoing tolerance of abusive behaviour can have the effect of encouraging and intensifying the abuse, making it harder to initiate a complaint. All employees/workers are urged to call out unacceptable behaviour at the earliest possible moment. In this way, a speedy and effective result can often be achieved in a way that enhances standards of behaviour in the workplace and avoids inadvertent breaches of confidentiality down the line.

In the first instance, a person who believes they are being subjected to bullying, victimisation, harassment, or sexual harassment should name it and ask the person responsible to stop the offensive behaviour. If it is difficult to approach the alleged offender directly, the complainant should seek help and advice on a confidential basis from one of the following:

- Stage Manager
- Company Stage Manager
- Head of Production
- Head of Planning
- Orchestra & Chorus Manager
- Artistic Administrator
- Business & Finance Manager
- Artistic Director
- Executive Director

If the complaint is against the Artistic Director or the Executive Director, the complainant should contact the Chair of the Board of Directors.

The person to whom the complaint is made should be sensitive and non-judgemental and should support the complainant by accompanying them to a manager/supervisor. That responsible person should then raise the issue with the alleged perpetrator(s) in a confidential and non-confrontational manner. It must be remembered that the employer, at this stage of the process, is dealing with an allegation of misconduct and must adopt a neutral position. In many instances this process, which names and acknowledges inappropriate behaviour and emphasises that it is not acceptable, can result in a mutual understanding and acceptance by both the offending and offended parties, and everyone can move on. Ideally, this process will involve an apology and a declared intention not to repeat the behaviour. If this is the case, then the matter should be regarded as concluded and no further action will need to be taken, except for the manager/supervisor to monitor that no negative consequence for the complainant results from having made the complaint.

Should the complainant be dissatisfied with the outcome of the Informal Procedure then they have the right to proceed with the following Formal Procedure, bearing in mind that there is no compulsion or sanction for opting not to engage with the Informal Procedure in the first instance.

Please see safetocreate.ie for artist/arts worker and organisation resources and information on making and managing a complaint. Contact Minding Creative Minds helpline ROI 1800 814244, NI 08003677 for free counselling and legal advice.

Formal Procedure

It is best practice that all informal resolution avenues should be contemplated and, where appropriate, exhausted before a formal process is invoked. However, a complainant may decide, for whatever reason, to bypass the Informal Procedure, or to use the Formal Procedure in circumstances where the Informal Procedure has been deemed to be unsatisfactory: e.g., where an alleged sexual harassment or harassment is too serious to be treated under the informal or secondary Informal process, it should be treated though the

formal process. Choosing not to use the Informal Procedure will not reflect negatively on a complainant in the Formal Procedure.

It is recognised that it may not always be practical to use the Informal Procedure, particularly where the complaint is very serious or criminal, or where there is a significant discrepancy between the position of the complainant and the authority position of the person about whose behaviour the complaint is being made. In such instances the employee/ worker should use the Formal Procedure.

When a formal complaint is being made, the employee/ worker should contact any of the following at the earliest possible moment:

- Stage Manager
- Company Stage Manager
- Head of Production
- Head of Planning
- Orchestra & Chorus Manager
- Artistic Administrator
- Business & Finance Manager
- Artistic Director
- Executive Director

If the complaint is against the Artistic Director or the Executive Director, the complainant should contact the Chair of the Board of Directors.

A formal complaint must be made in writing, outlining as much detail as possible regarding the allegation: the nature of the complaint; the name of the alleged perpetrator(s); the time(s) and date(s) of the alleged offence(s); details of witness(es) to the alleged offence(s); details of efforts made to deal with the alleged offence; consequences of the alleged offence on the work of the complainant; sanctions or negative repercussions since the alleged offence; and any other pertinent details.

On receipt of a formal complaint, the Employer will assign a member of management (the Investigator) to investigate the complaint and to ensure that the details of the complaint are fully understood.

A meeting will be arranged with the alleged perpetrator at the earliest possible time. In the interests of natural justice, the alleged perpetrator will be notified in writing, in advance of meeting, with the following:

- The name of the complainant
- The nature of the complaint
- A copy of the allegations made, including information about when and where and how the behaviour complained of occurred
- Confirmation of his/her right to representation at any meeting
- Right to rebuttal of the allegation(s) made

Following on from the initial meeting with both parties (and their representatives), the Investigator will determine the appropriate course of action, which will include either of the following approaches:

1. Where the facts are admitted and agreed by both parties, taking appropriate action to resolve the dispute and/or recommending to management what disciplinary action should be taken against the perpetrator.
2. The Investigator carries out a formal investigation with a view to determining the facts and the credibility, or otherwise, of the allegation(s).

Whilst it is desirable to maintain maximum confidentiality, once an investigation of an issue begins, it may be necessary to interview other staff/workers. If this is so, the importance of confidentiality must be stressed to them.

Any statements taken from witnesses will be circulated to the complainant and the alleged perpetrator for their comments before any conclusion is reached in the investigation.

When the investigation has been completed, both parties will be informed as to whether or not the complaint has been upheld.

Both parties will be given the opportunity to comment on the findings before any disciplinary or other action is decided upon by management.

A record of all relevant discussions which take place during the course of the investigation will be maintained by management. Both parties will be given a copy, in writing, of the conclusions reached by the Investigator.

The management will report regularly to the Board of Directors on complaints which are subject to the Formal Procedure. Details of the individuals involved in complaints (e.g. names of complainant and alleged perpetrator) should only be communicated to the Board on a need-to-know basis, but the Board should always be kept aware of the number of complaints being processed at any given time and the progress being made towards achieving a satisfactory outcome in each case.

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Appeal Process

Either party can appeal the decision of the formal investigation. This must be done in writing to the Executive Director or Artistic Director, or to the Chair of the Board of Directors in the event that the Executive Director or Artistic Director are a party to the allegations, within five working days of receipt of the conclusions reached by the Investigator. A detailed outline of the grounds for an appeal should be included. The Appeal will be undertaken, at a level of the Employer's management, more senior to that of the original Investigator. The Appeal will focus only on the aspect of the case cited by the appellant as being the subject of the appeal. Both parties will be informed in writing as to the outcome of the appeal.

If, having lodged a complaint under the Formal Procedure, a person is dissatisfied with the outcome of this process, they may pursue a case at the Workplace Relations Commission (WRC) under the Employment Equality Acts.

Action Post-formal Investigation (and Appeal)

Where a complaint is upheld, a disciplinary hearing will take place. The disciplinary action will be in line with the employer's disciplinary policy. Smaller work entities/sole traders should put in place a disciplinary code applicable to their employees/workers. Should a case of bullying, harassment, or sexual harassment be proven, then the employer will take appropriate disciplinary action which can include a warning, transfer, demotion, contract cancellation, or other appropriate action up to and including dismissal.

Where a formal investigation has taken place, records of any warning for bullying, harassment or sexual harassment will remain on the employee's/worker's file and will be used in determining disciplinary action to be taken if any further offences of the same or similar nature occur in the future. Where the matter is resolved informally, the extent to which records of the incident should remain on the file of the perpetrator needs to be decided on a case-by-case basis.

Regular checks will be made by management, reporting to the Board of the employer organisation, to ensure that the offending behaviour has stopped and that there has been no victimisation of the complainant for having made the complaint. Retaliation of any kind against an employee/worker for complaining or taking part in an investigation concerning bullying, harassment, or sexual harassment at work must be treated as a serious disciplinary issue.

Malicious Complaints

Complaints which are not upheld following the Formal Procedure are not necessarily regarded as malicious.

However, if a complaint is found to be malicious, the appropriate disciplinary action, up to and including dismissal, will be imposed.

Respecting the Artists

The nature of Arts work involves an intense interaction with many creative individuals. This process can expose Employees/workers, artists and performers in particular, to vulnerable situations, particularly when depicting close physical intimacy, nudity or violence. The employer requires that such scenarios be very thoroughly discussed between the participants during the devising of work and prior to rehearsals. Character development can also exert intense mental pressure on an individual performer, and consideration must be given to actions which will mitigate any adverse impact on the performer.

No member of a creative team should ever cause a member of cast to perform, in devising, in rehearsal, on set, or in public, in such a way that they experience any sense of oppression in the delivery of their performance. To this end, the Employer should engage an external individual – an intimacy co-ordinator – to participate in the rehearsal of certain dramatic works or scenes.

The capturing of still or moving images of such intimate portrayals, and their use in marketing and PR in all media, must also be managed in a way that does not threaten the dignity and respect of the performer.

On Tour/On Location

On tour or on location, nationally or internationally, creates particular environments, both within buildings and on set and in the social milieu, which can create opportunities for inappropriate behaviour. Informal and Formal Complaints procedures apply as above.

Students, Interns, Trainees, Volunteers and Young Employees/Workers

Individuals in all of these categories are often participants in every aspect of arts production. Experience would suggest that these groups are most at risk from abuse of power whether in administration, technical, or creative departments. When individuals from these groups are inducted into the Company, they should be given a copy of this Code of Behaviour and this should happen at the very start of their placement/contract. Because of their relative youth and/or inexperience, the staff member responsible for the induction process must make it absolutely clear to all such individuals that the employer operates a zero- tolerance policy in relation to improper behaviour, and actively encourages the reporting of any breach of this Code.

It should be stressed that it is never appropriate for someone in a junior role to be asked by someone in a senior role to work outside hours in their private home. All individuals in these categories must sign an induction form indicating that they have read and understood the Code of Behaviour, and the employer should provide the name of the person in the organisation to whom complaints can be made if the student/intern/volunteer/ young employee or worker experiences inappropriate behaviour from any other employee/worker. This shall take place without limiting the provisions of the Formal and Informal Complaints Procedures outlined above.

Sexual Assault

If you have been sexually assaulted (or threatened with sexual assault) at work by a co-worker, client, or customer you need to get to a safe space and seek support from someone who can help you. If you are injured, contact your doctor, or seek treatment at a Sexual Assault Treatment Unit (SATU). Your local SATU provides specialist support, treatment, and information.

Assault is a criminal act, and if you want to report it, call or visit the Gardaí. Find your local station or call 999 or 112. You can also call a Rape Crisis Centre. The National Helpline is 1800 77 8888 which provides support to the victims of sexual assault.

Appendix 1

Definitions of Bullying, Harassment, Sexual Harassment and Victimisations

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 of 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.

Bullying is conduct which occurs on more than one occasion and which is offensive to a reasonable person. Many types of conduct and actions can constitute bullying with some being less obvious than others.

Bullying can consist of persistent offensive, abusive, intimidating, malicious, or insulting behaviour, or abuse of power carried out by an employee, or group of employees, either directly or indirectly, or online, which makes the recipient feel upset, threatened, humiliated, or vulnerable. By way of example only, a pattern of any of the following (non-exhaustive) types of conduct amount to bullying:

- Personal insults and name calling
- Persistent unjustified criticism and/or sarcasm
- Public or private humiliation
- Shouting at staff in public and/or private
- Sneering
- Instantaneous rage, often over trivial issues
- Unfair delegation of duties and responsibilities
- Setting impossible deadlines
- Unnecessary work interference
- Making it difficult for staff to have access to necessary information
- Aggression
- Making offensive comments
- Not giving credit for work contribution
- Continuously refusing reasonable requests without good justification
- Intimidation and threats in general
- Exclusion with negative consequences
- Physical abuse
- Being treated less fairly than colleagues
- Intrusion (pestering, spying or stalking)
- Menacing behaviour

The following are examples (non-exhaustive) of behaviour which does NOT amount to bullying:

- Legitimate instructions to perform task(s)
- Reasonable and essential action arising from the good management of the performance of employees
- Actions taken in furtherance of the health and welfare of employees
- Constructive and fair criticism of an employee's conduct or work performance
- Reasonable instructions issued by a line manager, such as: assignment of duties; terms and conditions of employment; or other matters which are appropriate for referral under the normal grievance procedures

Bullying can have a physiological, psychological, and behavioural impact on an individual. Victims can lose their self-esteem and self-confidence, and are at increased risk of suffering stress-related conditions that

can trigger further trauma. Apart from the direct impact on a victim's health, long-term exposure to bullying may also have consequences for the victim's livelihood, through absenteeism and resignation from work in order to avoid contact with the bully.

Harassment

Harassment on the grounds of gender, marital status, family status, race, age, religion, sexual orientation, disability, membership of the Travelling Community, is defined as any unwanted conduct which has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. Unwanted conduct may consist of acts, requests, spoken words, gestures, or the production, display or circulation of written words, pictures, or other material. Examples of harassment might include:

- Verbal harassment (jokes, comments, ridicule or songs)
- Written and online harassment (texts, messages, comments, emails, letters, notices, posts on social media platforms or other online platforms)
- Physical harassment (jostling, shoving, pinching, unnecessary touching, or any form of assault)
- Non-verbal harassment or intimidation (gestures, posturing, or threatening poses)
- Visual displays (cartoons, posters, emblems, badges)
- Isolation or exclusion from work-related social activities
- Pressure to behave in a manner that the employee/ worker thinks is inappropriate

Victimisation

In accordance with the Equality Acts, victimisation occurs where dismissal or other adverse treatment of an employee/worker occurs as a reaction to:

- A complaint of discrimination made by the employee/ worker
- Any proceedings by a complainant
- An employee/worker having represented or otherwise supported a complainant
- An employee/worker having been a witness in any proceedings under the Equality Acts or the Equal Status Act (2000–2008)
- An employee/worker having given notice of intention to do any of the above

Any victimisation of, or retaliation by, another employee/ worker against a complainant, an employee/worker supporting a complainant, or a worker who gives evidence regarding an allegation of bullying, harassment, or sexual harassment, will be subject to disciplinary action up to and including dismissal.

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. This conduct is not limited by the gender(s) of the complainant and the alleged perpetrator(s). The unwanted conduct may consist of acts, requests, spoken words, gestures, physical contact, or the production, display or circulation of written words, pictures, or other material. Examples of sexual harassment include:

- Sexual gestures
- Displaying sexually suggestive objects including images, text messages or emails
- Unwelcome sexual comments and jokes
- Unwelcome physical contact such as pinching, groping, unnecessary touching etc.
- Physical force, or threat of force, for sexual objective
- Threat of disadvantage for rejection of advances
- Promise of advantage for sexual concessions

Sexual Assault

Sexual assault is any sexual act that you did not consent to or are forced into against your will. This includes rape. Sexual assault, and being made to fear immediate assault, is a criminal offence.