Harassment and Sexual Harassment Policy for

Laurel Hill Secondary School FCJ

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1. Policy Statement

Laurel Hill Secondary School FCJ is committed to providing a safe working environment where employees are treated with dignity and respect in an environment which is free from all forms of harassment and sexual harassment.

This Harassment and Sexual Harassment Policy (hereafter the "Policy") has a strong preventative focus, emphasising the duties of all employees to create and maintain a working environment in which everyone is treated with dignity, courtesy and respect and where diversity is valued. Where complaints of harassment or sexual harassment occur, the Policy aims to ensure that all parties will be treated with fairness, sensitivity, respect and confidentiality, with due regard to the rights of all parties.

The Policy recognises the importance of early intervention in managing complaints of harassment and sexual harassment. A key objective is to ensure that all reasonable efforts are made to deal with complaints at local level, informally where appropriate. The Policy promotes mediation as an essential tool in resolving complaints. Mediation is a voluntary process that can be entered into at any stage of the complaints management process and will be actively encouraged from the earliest stage possible where appropriate.

Harassment and sexual harassment by employers, employees and non-employees such as independent contractors, service providers, students, parents and volunteers will not be tolerated. This Policy provides a framework in which complaints of harassment and sexual harassment will be taken seriously and will be followed through to resolution. Employees who make complaints and who support such employees will not be victimised. Where it is established that a person accused of bullying has a case to answer, appropriate action will be taken which may include disciplinary action or other appropriate sanctions such as the suspension of contracts or services or exclusion from the premises.

Vexatious or malicious complaints may lead to disciplinary action or other appropriate sanctions.

2. Background and Context

It is widely recognised that sexual harassment and harassment on the eight non-gender prohibited grounds pollute the working environment and can have a devastating effect on the health, confidence, morale and performance of people affected by it. The anxiety and stress caused by harassment and sexual harassment may lead to victims taking time off work due to sickness and stress, being less efficient at work or leaving their jobs to seek work elsewhere.

In addition to the harassment or sexual harassment itself, employees often suffer short and long-term damage to their employment prospects if they are forced to forego promotion or to change jobs. Harassment and sexual harassment may also have a damaging impact on employees who are not themselves directly the object of such harassment, but who experience a workplace culture where harassment or sexual harassment is normalised and undermines the dignity of workers.

There are also adverse consequences for employers. Harassment and sexual harassment have a direct impact on an organisation where affected staff take sick leave or resign their posts. A hostile work culture can also undermine and have an impact on employees' productivity.

3. Sexual Harassment and Harassment on the prohibited grounds

This Policy is based on *The Code of Practice on Sexual Harassment and Harassment at Work* (2022) issued by the Irish Human Rights and Equality Commission (IHREC) in accordance with the Employment Equality Acts 1998-2015.

The Policy emphasises the importance of assessing each complaint on its own merits in order to determine the most appropriate way of addressing a complaint. This may be under the informal stage, through mediation, or through the formal procedure.

4. Scope

This Policy extends to harassment and sexual harassment by employees, students on teaching placement, contractors, volunteers and other school contacts:

- At the workplace;

- Outside of the workplace during the course of employment, such as on school trips, and at work-related events or social functions;

Nothing in this Policy limits the rights of school management to investigate any matter which relates to harassment or sexual harassment in circumstances other than where a complaint has been made.

This Policy does not apply to:

(a) Complaints of harassment or sexual harassment made by employees against students. Such complaints will be dealt with in accordance with the school's Code of Behaviour;

(b) Matters of the professional competence of teachers, which are dealt with in accordance with Department of Education Circular Letter 0049/2018;

(c) 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;

(d) Complaints which are the subject of legal proceedings;

(e) Complaints subject to criminal investigation by An Garda Siochana;

(f) Complaints which fall outside the definition of harassment or sexual harassment which may be addressed through other agreed procedures, for example the appropriate grievance procedure;

(g) Complaints of bullying. Please refer to the school's Anti-Bullying Policy for information on how to address a complaint of bullying.

(h) Complaints of harassment or sexual harassment made by a student(s) against employees. Such complaints may be dealt with under the appropriate disciplinary procedures and/or child protection procedures;

(i) Complaints by parents. These will be dealt with through other relevant procedures.

5. Definitions

5.1 What is 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 be reasonably 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]

"**Workplace Bullying** should meet the criteria of an on-going series of accumulation of seriously negative targeted behaviours against a person or persons to undermine their esteem and standing in a harmful, sustained way. Bullying behaviour is offensive, on-going, targeted and outside any reasonable norm. A pattern and trend are involved so that a reasonable person would regard such behaviour as clearly wrong, undermining and humiliating. It involves repeated incidents or a pattern of behaviour that is usually intended to intimidate, offend, degrade or humiliate a particular person or group of people - but the intention is not important in the identification process."[2]

Workplace bullying can include conduct offensive to a reasonable person, for example oral or written slurs, physical contact, gestures, jokes, displaying pictures, flags/emblems, graffiti, or other material that state/imply prejudicial attitudes that are offensive to fellow employees.

The *Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work* states that behaviour which makes for a bullying pattern will likely include not just one but a range of the following examples:

- Exclusion with negative consequences;
- Verbal abuse/insults;
- Being treated less favourably than colleagues in similar roles;
- Belittling a person's opinion;
- Disseminating malicious rumours, gossip or innuendo;
- Socially excluding or isolating a person within the work sphere;
- Intrusion – pestering, spying or stalking;
- Intimidation/aggressive interactions;

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[1] As defined, with emphasis, in SI No 674 of 2020, Industrial Relations Act 1990 (Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work) Order 2020

[2] SI No 674 of 2020, Industrial Relations Act 1990 (Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work) Order 2020, p.11

- Excessive monitoring of work;
- Withholding information necessary for proper performance of a person's job;
- Repeatedly manipulating a person's jobs content and targets;
- Blaming a person for things beyond their control;
- Use of aggressive an obscene language;
- Other menacing behaviour.

This list is not exhaustive.

Where the behaviour concerned falls within the definition and examples of bullying set out above, please refer to the school's Anti-Bullying Policy for further information on how to address the complaint.

5.2 What is Harassment?

Harassment that is based on any of the following grounds of gender, civil status, family status, sexual orientation, religious belief, age, disability, race, or membership of the traveller community (the "prohibited grounds") is a form of discrimination in relation to conditions of employment.

Section 6(2) of the EEA defines the nine prohibited grounds;

'Gender' discrimination covers men and women. Discrimination because of pregnancy or maternity leave is also defined as gender discrimination. Under EU law a transgender person who experiences discrimination arising from their gender reassignment, or transition, is protected under the gender ground.

'Civil status' is defined as being single, married, separated, divorced, widowed, in a civil partnership (within the meaning of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010) or being a former civil partner in a civil partnership that has ended by death or been dissolved.

'Family status' means responsibility as a parent or person in loco parentis for a person under the age of 18 years or responsibility as a parent or resident primary carer of a person of 18 years or over with a disability requiring care or support.

'Disability' is defined broadly as, for example: the total or partial absence of a person's bodily or mental functions; the presence of organisms which cause or are likely to cause disease; the malfunction, malformation or disfigurement of a part of a person's body; a condition or malfunction which results in a person learning differently from a person without the condition or malfunction; or a condition or illness which affects a person's thought processes, perceptions of reality, emotions or judgement or which results in disturbed behaviour. The definition includes a disability which exists, which previously existed, which may exist in the future, or which is imputed to a person.

'Sexual orientation' is defined as heterosexual, bisexual or homosexual.

'Age' refers to the protection against age-related discrimination in employment and applies only to employees over the maximum age at which a person is statutorily obliged to attend school. (The

minimum school leaving age is currently 16 years, or the completion of three years of post-primary education, whichever is the later.)

'Race' includes race, colour, nationality or ethnic or national origins.

'Religious belief' includes different religious background or outlook, (including the absence of religious belief).

'Membership of the Traveller community', means a member of the community of people who are commonly called Travellers and who are identified (both by themselves and others) as people with a shared history, culture and traditions including, historically, a nomadic way of life on the island of Ireland.

Harassment is defined in section 14A(7) of the Employment Equality Acts 1998-2015 ("EEA") as any unwanted conduct related to any of the prohibited grounds that has the purpose or effect of violating a person's dignity at work and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

The conduct at issue may not be specifically directed at a particular employee but may nevertheless have the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for that person. It is the effect of the behaviour on the recipient, rather than the intention of the alleged harasser, which is relevant.

Unwanted conduct based on one of the prohibited grounds may be harassment even if the person does not have that relevant characteristic, but where the perpetrator believes that the employee does. For example, where the perpetrator believes that the employee is gay and the employee is not, or where the perpetrator believes the employee has a particular disability and the employee does not.

The unwanted conduct may consist of acts, requests, spoken words, gestures, or the production, display or circulation of written words, pictures or other material.[3]

Unlike bullying, a single incident may constitute harassment.

The *Code of Practice on Sexual Harassment and Harassment at Work* provides the following non-exhaustive list of examples of harassment:

- Verbal harassment - jokes, comments, ridicule or songs;
- Written harassment - including graffiti, text messages, emails, social media or internet posts;
- Physical harassment - jostling, shoving or any form of assault;
- Intimidatory harassment - gestures, posturing or threatening poses;
- Visual displays such as posters, emblems or badges;

[3] Section 14A(7)(a) and (b) of the Employment Equality Acts 1998 - 2015

- Excessive monitoring of work;
- Isolation or exclusion from social activities; and
- Unreasonably changing a person's job content or targets.

This list is not exhaustive.

5.3 What is sexual harassment?

Sexual harassment is defined in section 14A(7) of the EEA as any form of verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person.

The conduct at issue may not be specifically directed at a particular employee but nevertheless has the purpose or effect of violating a person's dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. It is the effect of the behaviour on the recipient, rather than the intention of the alleged harasser, which is relevant.

Many forms of behaviour can constitute sexual harassment. A single incident may constitute sexual harassment. The *Code of Practice on Sexual Harassment and Harassment at Work* provides the following non-exhaustive list of illustrative 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 contact, continued suggestions for social contact outside the workplace after it has been made clear that such suggestions are unwelcome, unwanted or offensive, suggestive remarks, innuendo or lewd comments, graffiti, written materials, emails, text messages or social media posts;

- Non-verbal conduct of a sexual nature
  This may include the display of pornographic or sexually suggestive pictures or objects. It may also include stalking, indecent exposure, leering, whistling or making sexually suggestive gestures; and

- Gender-based conduct
  This includes conduct that denigrates or is abusive of an employee for reasons related to their sex such as derogatory or degrading abuse or insults which are gender-based. This might include conduct that insults or degrades an employee because they are pregnant or because they are transgender.

The examples stated in this Policy are not an exhaustive list and the school reserves the right to take action in respect of these and other inappropriate behaviours

5.4 Essential Elements of Harassment/Sexual Harassment

5.4.1 Unwelcome Conduct

The EEA does not prohibit all relations of a sexual or social nature at work. To constitute sexual harassment or harassment the behaviour complained of must firstly be unwelcome. It is up to each employee to decide irrespective of the attitudes of others (a) what behaviour is unwelcome and (b) from whom, if anybody, such behaviour is welcome or unwelcome. The fact that an individual has previously acceded to the behaviour does not stop them from deciding that it has become unwelcome. It is the unwanted nature of the conduct which distinguishes harassment and sexual harassment from behaviour which is welcome and mutual.

5.4.2 Violation of Dignity

In addition, to constitute harassment or sexual harassment under the EEA 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.

5.4.3 Intention

The intention of the perpetrator of the sexual harassment or harassment is irrelevant. The fact that the perpetrator has no intention of sexually harassing or harassing the employee is no defence. The effect of the behaviour on the employee is what is determinative.

5.5 Examples of what is not Harassment/Sexual Harassment:

- Complaints that relate other than to the nine grounds or sexual harassment;
- 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;
- Complaints relating to reasonable instructions issued by management, assignment of normal duties or terms and conditions of employment;
- Complaints that fall within the definition of bullying as set out in the Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work.

6. Roles and Responsibilities under the Policy

6.1 Complainant

Where an employee raises a complaint under the complaints procedure outlined below, they will be referred to as "the Complainant".

6.2 Respondent

Where an employee raises a complaint under the complaints procedure outlined below, the individual regarding whom the allegation is made against will be referred to as "the Respondent".

6.3 Management

The most effective way of eliminating harassment and sexual harassment is by fostering and supporting an environment which is positive and inclusive. School management has a key role in creating and maintaining a positive workplace culture which is free from any form of harassment and sexual harassment where complaints are addressed expeditiously with a minimum of distress to all parties involved. In particular, management should:

- Ensure the implementation and regular review of this Policy and procedures;
- Provide information in relation to prevention, policy and procedures to employees on induction and promote awareness of this Policy on a regular basis;
- Set a good example by treating everyone in the workplace with courtesy and respect;
- Provide training on this Policy;
- Be vigilant for signs of harassment and sexual harassment at work and take action before a problem escalates;
- Deal sensitively with employees involved in a complaint, whether as Complainant or Respondent;
- Ensure that the Complainant and Respondent are treated fairly;
- Ensure that an employee is not victimised for having made a complaint;
- Communicate actively, promptly and transparently with the Complainant and the Respondent in relation to any informal or formal complaint, while maintaining appropriate confidentiality;
- Monitor and follow up the situation after a complaint is made.

6.4 Employees

Under the Safety, Health and Welfare at Work Act 2005, all employees have a duty not to engage in improper conduct or behaviour which is likely to endanger their own safety, health and welfare at work or that of any other person.

All employees have a role in promoting a workplace culture that is free from any form of bullying, harassment and sexual harassment. All employees have a responsibility to behave with dignity and respect towards one another in the workplace. This applies both in individual interactions and in interactions with other employees, students, parents, volunteers, contractors and anyone present in the school.

Employees have an obligation to cooperate with any investigation of complaints of harassment and sexual harassment, or in circumstances other than where a complaint has been made. Employees have an obligation to provide any relevant information that may assist in such investigations.

6.5 Contact Person

A Contact Person is available to provide information to any employee who may have a query in relation to the operation of this Policy. The role of the Contact Person is to provide information and emotional support in a confidential manner to any employee who feels that they are being subjected to harassment or sexual harassment. The Contact Person will provide the employee with a copy of the Policy and explain the options open to the employee. The role of the Contact Person is limited to providing support to the employee; the Contact Person has no role in advising or directing the employee to take a particular course of action.

It is not the role of the Contact Person to act as an advocate or representative of the employee and the Contact Person may not approach the alleged perpetrator(s) on an employee's behalf. The Contact Person has no role in the investigation of complaints and should keep no records of any discussions with the employee.

A list of contact persons will be available on the staff noticeboard.

INTERESTED CONTACT PERSONS PLEASE REFER TO PRINCIPAL

7. Complaints Procedure

7.1 Overview

This Policy emphasises the importance of early intervention and, where appropriate, use of an informal approach, offering as it does the best possible potential for a good outcome, particularly with regard to restoring workplace relationships. It is recognised that an informal approach may allow for unwanted behaviour to be addressed without the need for a Complainant to have recourse to any other action.

The procedure for managing complaints consists of an informal process and a formal investigation. Each complaint will be assessed on its own merits in order to identify the most appropriate means of dealing with the matter, including whether stages of the procedure should be bypassed. In certain circumstances, a serious complaint or allegation of harassment or sexual harassment may be referred by management for formal investigation at the outset.

While every effort should be made to resolve the complaint by using and exhausting informal procedures, such efforts may not succeed and it may be determined that the matter should proceed to investigation. Where this occurs, the investigation process is designed to deal with complaints promptly, with minimum distress for the parties involved, using fair procedures which uphold the rights of all parties.

The Code provides that organisations should monitor complaints and how they are resolved in order to evaluate, improve and update the Policy and procedures at regular intervals. Appropriate records will be kept while observing data protection/GDPR requirements.

7.2 Mediation

Mediation is strongly encouraged as a means of trying to resolve complaints. It is important that employees are made aware of how mediation operates and of the potential benefits of engaging in mediation in order that they can make an informed decision on whether to engage. Parties will be encouraged to consider mediation from early on in the complaint management process, where appropriate.

The objective of mediation is to resolve the matter speedily and confidentially with the minimum of conflict and stress to the individuals involved. Mediation requires the voluntary participation and co-operation of both parties in order to work effectively. Although it is recognised that mediation is more likely to have a better outcome when the parties engage at an early stage, the parties can choose to engage in mediation at any stage of the process, including during or after formal investigation.

The mediation process is strictly confidential to the parties.

7.3 Informal Procedure

An informal approach may address the unwanted behaviour without the need for further action. This is an informal mechanism that is designed to be flexible in order to allow for minor complaints to be dealt with quickly. Ideally, this initial informal response would address the unwanted behaviour effectively, without the need for a Complainant to have recourse to further action.

Before deciding on what course of action to take, if any, the Complainant may wish to discuss the matter on a confidential basis with the Contact Person. The role of the Contact Person is a supportive, informative role and is outlined in paragraph 6.5 of the Policy.

(a) A Complainant who believes that they are being harassed or sexually harassed should object to the conduct, where this is practicable. In some cases, it may be possible for the Complainant to approach the Respondent directly in order to make the person aware that the behaviour concerned is unwelcome, that it offends them or makes them uncomfortable. In doing so, the Complainant should focus on the facts regarding the alleged unacceptable behaviour and its effects on them.

(b) If it is more suitable, the Complainant should put their concerns in writing to the Respondent, focusing on the alleged unacceptable behaviour and the effects of same.

(c) Sometimes the alleged perpetrator is genuinely unaware that their behaviour is unwelcome and causing distress to the Complainant. An informal discussion is often sufficient to make the person aware of the effects of their behaviour and can lead to a greater understanding and an agreement that the behaviour will stop.

(d) Alternatively, if the Complainant is not comfortable raising the matter directly with the Respondent, or if a direct approach does not resolve the matter, the Complainant may request a Deputy Principal[4] to approach the person on their behalf.

(e) Where a Complainant requests a Deputy Principal to approach the Respondent, they should do so without delay. Where appropriate, the Deputy Principal should attempt to resolve the matter in a low-key and non-confrontational manner by making the Respondent aware of the effects of their behaviour on the Complainant. The Deputy Principal may arrange to meet with the parties separately or jointly in order to try to reach agreement on a resolution of the matter. Both parties should be reminded of supports that are available, including the availability of the Employee Assistance Service.

(f) The Deputy Principal may encourage the parties to avail of mediation in order to try to resolve the matter, highlighting its effectiveness at resolving complaints at an early stage. Alternatively, the Deputy Principal may assist the parties in identifying a method to be agreed between the parties to progress the issue to resolution so that both parties can return to a harmonious working environment without harassment or sexual harassment being a factor.

(g) Where inappropriate behaviour of the Respondent has been partly or fully identified, steps should be taken to stop the behaviour and to monitor it going forward so as to prevent a reoccurrence. This should include the drawing up of a plan with agreed actions which is to be signed by both parties at the final meeting.

(i) The parties will be reminded of the importance of confidentiality in the process and that any breaches thereof may be dealt with under the appropriate disciplinary procedure.

(j) Where the parties engage in mediation, all information disclosed in the course of that process must remain within the mediation process and must not be disclosed to third parties, including an investigator in the event that the matter proceeds to formal investigation.

8. Formal Procedure

This Policy provides for a formal procedure where:

- The Complainant wishes to have their complaint treated formally;
- The alleged harassment or sexual harassment are too serious to be treated informally;
- The complaint has not been resolved through the informal procedure or through mediation;

[4] Where the complaint concerns the Deputy Principal, the Complainant may approach another Deputy Principal or, where unavailable, the Principal.

- The harassment or sexual harassment has continued after the informal procedure has been followed.

8.1 Formal Complaint

The Complainant should make a formal complaint in writing to the Principal.[5] The complaint should be signed and dated and confined to the precise details of the allegation(s), including any dates and the names of witnesses where possible.

The Respondent will be notified in writing that an allegation of harassment or sexual harassment has been made against them. The Respondent will be given a copy of the Complainant's statement and a copy this Policy. The Respondent will be advised that they will be afforded a fair opportunity to respond to the allegation(s).

The complaint will be subject to an initial examination with a view to determining an appropriate course of action. This could be exploring a mediated solution or seeking to resolve the matter informally. Should either of these approaches be deemed to be inappropriate, the complaint will be referred for formal investigation.

The Complainant and the Respondent should be advised in writing of the aims and objectives of the formal process, the procedures and approximate expected timeframes involved, and the possible outcomes. Both parties should be assured of support throughout the process, including the availability of the Employee Assistance Service.

An initial meeting should be organised by the Principal with the Complainant and Respondent separately. If both parties agree to engage in mediation or to attempt resolution at the earlier informal stage of the Policy, the formal investigation can be put on hold, pending the outcome of same.

8.2 The Investigation

Where there is no option but to proceed to a formal investigation, the Board of Management will appoint a designated member of the Senior Management Team or an independent third party to conduct the investigation. The investigation should be governed by Terms of Reference, determined by management following consultation with the Complainant and the Respondent.

The Terms of Reference will be based on the written complaint, the response of the Respondent and any witness statements. The purpose of the investigation is for the investigator to gather the facts and decide, on the balance of probabilities, whether or not the Respondent has a "case to answer" (i.e. that there is sufficient evidence present that the matter should proceed to a disciplinary hearing).

The investigation will be conducted thoroughly and objectively, with due respect for the rights of both the Complainant and the Respondent. Confidentiality will be maintained throughout the investigation to the greatest extent consistent with the requirements of a fair investigation. It is not possible however to guarantee the anonymity of the Complainant or any person who participates in the investigation.

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[5] Where the complaint involves the Principal, the formal complaint should be made in writing to the Chairperson of the Board of Management, who will assume the role of Principal in the process.

The Complainant and Respondent will be given copies of all relevant documentation prior to and during the investigation process, including the Terms of Reference, the written complaint, the written response of the Respondent to the complaint and any other documentation or evidence, including social media communications, CCTV footage, witness statements and records of meetings.

Both the Complainant and the Respondent may be accompanied to any meetings by a trade union representative or work colleague if so desired.

Both the Complainant and the Respondent may provide details of witnesses or any other person whom they feel could assist in the investigation. The investigator may also identify relevant witnesses. The investigator will determine which witnesses they will meet in the course of the investigation. Persons may be required to attend further meetings to respond to new evidence or to provide clarification on any of the issues raised. Employees are expected to cooperate fully with the investigation and will be fully supported throughout the process. It will be considered a disciplinary offence to intimidate or exert pressure on any person who may be required to attend as a witness.

A written record will be kept of all meetings. Parties will be provided with a copy of the written record of the meeting and will be provided with an opportunity to amend the record or comment on the factual accuracy of same. If the Investigator does not agree with the proposed amendments or comments appended to the record, both records of the meeting and any added comments will be kept and appended to the final report.

Any party who participates in the investigation process will be required to respect the privacy of the parties involved by refraining from discussing the matter with other work colleagues or persons outside the organisation.

On completion of the investigation, the Investigator will prepare a written report. The Investigator will decide on the balance of probabilities, based on the facts before them, whether or not the Respondent has a case to answer.

If the Respondent is not an employee, the report will recommend whether sanctions against the non-employee or their employer are appropriate which could include:

- exclusion of the individual from the premises;
- suspension or termination of service; or
- suspension or termination of a supply service or other contract.

Both the Complainant and the Respondent will be given a copy of the draft investigation report and will be afforded the opportunity to propose specific amendments to the report, on matters of fact, in writing within **[5]** working days.

On completion of the investigation, the investigator will submit a final investigation report to the Chairperson of the Board of Management.

The report may also make recommendations for action such as further training or more effective promotion of the School's Policy on harassment and sexual harassment.

The investigator will take all appropriate steps necessary to ensure compliance with data protection legislation and GDPR. During the investigation, the investigator will keep all records relating to the investigation in a secure and appropriate manner. On conclusion of the investigation, the investigator will transfer to the Chairperson all records relating to the investigation in a secure and appropriate manner.

The parties may agree to enter mediation at any stage of the investigation process.

9. Outcome of the Investigation

Depending on the outcome of the investigation, appropriate action will be taken, which may include invoking the disciplinary procedure or offering mediation or counselling. Information on any action taken, including whether a disciplinary process is invoked in respect of the Respondent, will be confidential and not shared with the Complainant.

Where it is decided that the Respondent has no case to answer, no action will be taken against the Complainant provided that the complaint was made in good faith. In the interests of all employees, any malicious or vexatious complaints will be treated very seriously and may lead to disciplinary action against the Complainant. Victimisation or retaliation against a Complainant, witness or any other party may amount to serious misconduct, which may be dealt with in accordance with the appropriate disciplinary procedure.

Any individual found to have made a false allegation of harassment or sexual harassment, or any individual who supports a false claim, for example a witness who participated in the investigation, may be subject to disciplinary action up to and including dismissal.

Regardless of the outcome of the investigation, it is recognised that investigations can result in divisive relationships. Consideration may be given as to how best to support the working relationship between the parties going forward. Parties to a complaint will be encouraged to avail of support from the Employment Assistance Service.

10. Non-Employees

It is possible that where the Respondent is not an employee of the school, they will not wish to participate in the formal procedure. Although it will not be possible to compel a non-employee to participate in an investigation, the non-employee should, nonetheless, be kept informed of all developments and given an opportunity to respond. The outcome of the investigation and any potential sanctions must also be explained to the non-employee and/or any person or organisation for whom they work.

11. Appeal

If either party is not satisfied with the outcome of an investigation they may appeal in writing to the Board of Management, stating the full grounds of appeal within **[two weeks]** of the date on which they were notified of the outcome of the investigation. The appeal will be dealt with impartially by a

nominee of the Board of Management of at least the same level of seniority as, but preferably more senior than, the original investigator and who will have had no previous involvement in the case. Any appeal will focus on the conduct of the investigation in terms of fair process and adherence to procedure. It is not a re-hearing of the original issues. The outcome of the appeal shall be final insofar as the employer's duties under health and safety legislation is required.

12. Confidentiality

All individuals involved in the procedures referred to above must maintain absolute confidentiality on the subject. Any breaches of confidentiality will be dealt with in accordance with the appropriate disciplinary procedure.

13. Victimisation

Employees will not be penalised, treated less favourably or subject to other adverse treatment because of pursuing rights by way of taking action, supporting action or giving notice of intention to take or support action under this Policy or under equality legislation. Any victimisation of employees will be dealt with in accordance with the appropriate disciplinary procedure.

14. Statutory Rights

Use of the complaints procedure will not affect the Complainant's right to make a complaint under the EEA. Under section 77(5) of the EEA, a complaint of harassment or sexual harassment must be made within 6 months of the alleged occurrence, or the most recent occurrence, of such harassment or sexual harassment. The time limit of 6 months may be extended by up to a maximum period of 12 months for reasonable cause. Employees should be aware that the statutory time limits will not be paused pending the outcome of an investigation and shall continue to run.

15. Review

The Policy will be reviewed every **[two]** years after its implementation.

Signature:

Seosamhín Uí Dhomhnalláin

Seosaimhín Uí Dhomhnalláin
Chairperson Board of Management

Date: 11th November 2024

Signature:

James Collins
Principal

Date: 11th November 2024