

DIGNITY IN THE WORKPLACE

TOWARDS A CODE OF BEHAVIOUR FOR **IRISH THEATRE**

DISCUSSION DOCUMENT

COMMENTS AND OBSERVATIONS WELCOME

PLEASE EMAIL PROJECTS@IRISHTHEATREINSTITUTE.IE BEFORE 7 APRIL 2018

DIGNITY IN THE WORKPLACE

TOWARDS A CODE OF BEHAVIOUR FOR IRISH THEATRE

CONTEXTUAL NOTE	5
WHAT IS THIS CODE OF BEHAVIOUR?	5
WHO IS COVERED BY THIS CODE OF BEHAVIOUR?	6
WHAT IS MEANT IN THIS CODE BY 'EMPLOYER' AND 'EMPLOYEE/WORKER'?	6
WHO IS LIABLE WHEN AN ABUSE IS PERPETRATED?	6
RESPONSIBILITIES	6
COMPLAINTS PROCEDURES	7
INFORMAL PROCEDURE	8
FORMAL PROCEDURE	8
APPEAL PROCESS	9
ACTION POST-FORMAL INVESTIGATION (AND APPEAL)	10
MALICIOUS COMPLAINTS	10
RESPECTING THE PERFORMER	10
TOURING PRODUCTIONS	10
STUDENTS, TRAINEES, INTERNS, VOLUNTEERS & YOUNG EMPLOYEES/WORKERS	11
TRAINING AND COMMUNICATION	11
FURTHER INFORMATION	11
SUPPORT ORGANISATIONS	11
APPENDIX 1 DEFINITIONS OF: BULLYING HARASSMENT SEXUAL HARASSMENT VICTIMISATION	12
APPENDIX 2 LEGISLATIVE AND REGULATORY FRAMEWORK	14
APPENDIX 3 REFERENCE DOCUMENTS & SOURCE MATERIALS	14

CONTEXTUAL NOTE

Following recent widespread exposure of bullying, harassment and sexual harassment in the theatre, there is a new determination to change the culture of the theatre sector by ensuring that dignity and respect is central to the treatment of all employees and other workers in the sector. To this end, a standard code of behaviour should be adopted across the theatre sector so that all those working in theatre can be clear as to their rights and obligations. This is especially pertinent in an industry that comprises a very high proportion of freelance workers.

Despite there being legal obligation for employers to ensure that employees are protected from abuse of power (bullying, harassment and sexual harassment) in the workplace, there is a relatively low level of reporting of such inappropriate behaviour in the theatre sector and an even more disappointing outcome in relation to complaints being acted upon satisfactorily. The codes of behaviour/conduct used by different employers vary considerably in how abuse is reported and dealt with. In the case of many smaller production entities there are often no formal codes of behaviour in place. In some instances of artist-led productions there is a lack of awareness of the fact that the lead artist is in fact an employer and subject to the same duties of care to employees/workers as is the case with larger companies. The purpose of putting an industry-wide code of behaviour in place is to:

- proactively encourage a 'zero tolerance' attitude towards abuse
- adopt a collective responsibility on the part of ALL workers to call out abuse and to support those being abused
- have a robust standard throughout the industry for how allegations of abuse should be dealt with promptly, thoroughly and fairly
- recognise that smaller production entities do not have the human and financial resources of larger companies. This is increasingly the case where Arts Council funding policy supports projects and programmes that do not have full-time management infrastructure. It follows that smaller production entities will require resources and training to enable a standard code of behaviour to be implemented.

The employer can be senior management, and/or its board of directors (or board of management/committee) in the case of companies.

WHAT IS THIS CODE OF BEHAVIOUR?

Every employer has a legal responsibility to ensure that the workplace, and work-related social events, afford respect and dignity to everyone, whether employees or freelancers. Clear protocols and policies should be in place specifying the responsibilities and behaviour expected of everyone in the theatre workplace, including in relation to respect and dignity in the workplace, and in particular policies on:

- Bullying
- Harassment
- Sexual harassment
- Victimisation

These four abuses of power in the workplace are defined in detail, with illustrative examples, in Appendix 1 of this document.

In theatre, bullying harassment and sexual harassment can take place in a number of work locations including:

- In the workplace
- Outside the workplace at opening and closing nights, functions, launches, receptions.
- On tour
- At any other place where employees/workers are present for company business, for example: training days, award ceremonies, residencies, workshops, festivals.

The employer in this Code commits to dealing with complaints of bullying, harassment and sexual harassment in a fair and sensitive manner and to handling complaints with confidentiality. The Code provides for appropriate disciplinary action, up to and including dismissal, to be taken where allegations are upheld against an employee. In the case of non-employees or workers against whom a complaint is upheld, appropriate sanctions, including for example, suspension of contract, will be taken.

WHAT IS MEANT IN THIS CODE BY 'EMPLOYER' AND 'EMPLOYEE/WORKER'?

In this Code of Behaviour, the terms “employer” and “employee/worker” mean the following:

- Employer means any individual sole-trader, company, partnerships (formal or informal); co-operative or other person engaging the services of individuals to provide services to that employer.
- The terms “employee” and/or “worker” include all the following:
 - (i) short-term and long term contract employees (contracts of service);
 - (ii) individual sole-trader freelancers (contracts for service);
 - (iii) individuals contracting through their own company (loan-out contracts);
 - (iv) Students, volunteers and interns

WHO IS COVERED BY THIS CODE OF BEHAVIOUR?

All employees/workers, trainees, interns, students, board members, volunteers and individuals providing services to the employer are protected by this Code of Behaviour. These employees/workers are also required to comply with it.

This Code of Behaviour will be given to all employees/workers at the commencement of their engagement. They must sign to indicate that they have read and understood it.

This Code applies to employers and employees/workers both in the workplace, and at work-associated events such as meetings, conferences and work-related social events, whether on the premises or off-site. The Code applies to bullying, harassment and sexual harassment, and victimisation not only by fellow employees/workers but also by a client, customer or other business contact with whom an employee/worker might reasonably expect to come into contact within the course of their employment.

WHO IS LIABLE WHEN AN ABUSE IS PERPETRATED?

The perpetrator of the abuse is liable in the first instance. As the person responsible for managing the behaviour of employees in the workplace, the employer also risks being held liable for that abusive behaviour. Having appropriate employer protocols to deal with allegations of abuse and implementing them, can reduce the risk of the employer being held liable for an employee's abusive behaviour. It is also crucial for ensuring a safe and respectful work environment. The Directors/Board of a limited liability company are responsible for ensuring the company has appropriate policies in place and that they are implemented and enforced. Where sole traders are involved, the individual sole trader or members of a partnership are at risk of being held personally liable for the abusive behaviour of one employee towards another.

RESPONSIBILITIES

All employees/workers have a responsibility for ensuring they treat their colleagues and contacts in the workplace with dignity and respect. Each employee/worker is also responsible for their own contribution to creating and maintaining a work environment free from bullying, victimisation, sexual and other forms of harassment. By this Code, the employer encourages all employees/workers to call out inappropriate behaviour as soon as it arises. An employee/worker might find it helpful to use this type of language: “That is not appropriate – it makes me feel uncomfortable”. Empower yourself and others. Try to avoid being a bystander when inappropriate behaviour is evident in the workplace. Be proactive and call out that behaviour when you see it happening.

Senior staff (creative, technical and administrative) must take responsibility for the power they have. They must take care to ensure they are not using that power abusively over others more vulnerable than them in the organisation. Senior staff should think about; what they want; why they want it; and how to achieve it. Most of all they should be aware of the potential impact their behaviour has on others.

Management and others in positions of authority have a particular responsibility to ensure that bullying, harassment and sexual harassment does not occur and that complaints are addressed speedily through the appropriate procedures. In particular, management should:

- Provide good example by treating all in the workplace with courtesy and respect
- Promote awareness of this Code and complaints procedures
- Be vigilant for signs of bullying/harassment and take action before a problem escalates
- Respond sensitively and swiftly to an employee/worker who makes a complaint of bullying/harassment
- Explain the procedures to be followed to anyone who makes a complaint of bullying, harassment or sexual harassment
- Recognise that abuses of power can happen across all genders and working relationships
- Endeavour to ensure that an employee/worker making a complaint is not victimised for doing so (see definition and examples of victimisation in Appendix 1)
- Monitor and follow up the situation after a complaint is made to avoid a recurrence of the behaviour that gave rise to the complaint
- Record abusive events that they become aware of, by direct observation or through reports from others, and ensure that all issues are followed up to a satisfactory conclusion
- Prepare timely reports for senior management where formal or serious complaints are made so that the Board can be apprised and so monitor the number and progress of complaints. Where informal complaints are made and resolved to the satisfaction of both the person making the complaint and the person complained about, report to the Board but be aware of confidentiality and that a formal report naming names of complainants and alleged perpetrators may not be appropriate in such circumstances.

COMPLAINTS PROCEDURES

The employer has both Informal and Formal Procedures to deal with any complaint made. Often the Informal Procedure can achieve a quick and satisfactory outcome, but the nature of the complaint and the personalities involved may mean that the Informal Procedure is not appropriate and the Formal Procedure is required. In any event, a complainant is not required to use the Informal Procedure and there is no sanction whatsoever for opting to use the Formal Procedure from the outset.

It would be desirable for employees/workers who believe they have been subject to abuse to 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.

All complaints received will be treated seriously, sensitively, and with due confidentiality. Complaints will be dealt with as soon as is practicable. Strict confidentiality and proper discretion will 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.

INFORMAL PROCEDURE

It is often preferable for all concerned that complaints of bullying, harassment or sexual harassment are dealt with informally. This is especially so at an early stage of unacceptable behaviour and can help to stop it continuing. 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.

So, in the first instance, a person who believes they are being subjected to bullying, victimising, 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 then the complainant should seek help and advice on a confidential basis from one of the following (the option chosen may be dictated by the scale of the employer's organisation):

- Their line manager e.g. director, producer, production manager, company manager, stage manager, CEO
- The Employer's HR manager or designated complaints' advisor (where applicable)
- Another trusted member of the company
- An elected Trade Union representative
- An external 'guardian' who would be available from the theatre sector/union to act in this capacity (See *oldvictheatre.com* article 'Way Forward – introducing the guardians programme', 25 January 2018)

The person to whom the complaint is made should be sensitive and non-judgemental, and should support the complainant by accompanying them (if the scale of the company is such that this is the way to proceed) 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's 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.

FORMAL PROCEDURE

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. 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 where there is a significant discrepancy between the position of the complainant and the authority position of the person whose behaviour is being complained about. In such instances the employee/worker should use the Formal Procedure.

When a formal complaint is being made, the employee/worker should contact either of the following (the option chosen may be dictated by the scale of the Employer's organisation) at the earliest possible moment:

- Their line manager e.g. director, producer, production manager, company manager, stage manager, CEO
- The Employer's HR manager or designated complaints' advisor (where applicable)
- Another trusted member of the company
- An elected Trade Union representative
- An external 'guardian' who would be available from the theatre sector/union to act in this capacity (See *oldvictheatre.com* article 'Way Forward – introducing the guardians programme', 25 January 2018)

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 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. 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 (or its equivalent, where it exists) of the employer 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.

APPEAL PROCESS

Either party can appeal the decision of the formal investigation. This must be done in writing to the CEO or Director, or to the Chairman of the Board of Directors in the event that the CEO or 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.

In smaller organisations, the scale of the organisation may not be such that an appeal to a more senior level of management is possible. In such cases, the complainant should consider contacting their Trade Union representative (if they have not already done so) or seeking legal advice, if they are not satisfied with the outcome of the formal investigation.

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 production 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 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 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 PERFORMER

The nature of theatre production involves an intense interaction with many creative individuals (e.g. directors, producers, cast, designers and choreographers).

This process can expose employees/workers, cast in particular, to vulnerable situations, particularly so in scenes 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 (e.g. director, producer, designer or choreographer) should ever cause a member of cast to perform, in devising, in rehearsal 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 may wish to engage an external individual – an intimacy director – 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.

TOURING PRODUCTIONS

The process of touring productions, nationally or internationally, creates particular environments, both within the theatre and in the social milieu, which can create opportunities for inappropriate behaviour. Typically the Touring Company Manager will be appointed by the employer to be responsible for dealing with any complaints arising under this code while on tour. 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 theatre 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 be without limiting the provisions of the Formal and Informal Complaints Procedures outlined above).

TRAINING AND COMMUNICATION

The Employer will provide or enable relevant periodic (at least annually) training opportunities for all employees/workers and management on how best to implement this Code of Behaviour. Each employee/worker must know they are always free to seek clarification on any aspect of this Code of Behaviour from their line manager. In the absence of their line manager or if circumstances are not appropriate they may approach a member of senior management. Sole-traders and freelancers should avail of training opportunities provided by their Union or other agencies and organisations.

FURTHER INFORMATION

This Code of Behaviour has been created following assessment of the risk to the health and safety of employees/workers from bullying, harassment, sexual harassment and victimisation in the theatre sector workplace.

This Code of Behaviour will be subject to regular review in line with: changes in legislation; case law; changes in the workplace practices; the experience of the industry in the implementation of this Code of Behaviour; and other relevant developments.

Nothing in this Code of Behaviour shall undermine or interfere with an individual's legal rights under criminal and civil law. If an employee/worker believes that a crime has been committed against them (e.g. assault, sexual assault) they should report that incident to the Gardaí and, if necessary, file appropriate charges.

An employee/worker is at all times entitled to seek formal legal advice.

The Harassment Toolkit produced by Amplify Women is regarded as a practical guide for employees/workers who may feel that they have been subjected to an abuse of power and who have experienced, bullying, harassment or sexual harassment in the workplace

SUPPORT ORGANISATIONS

The following organisations are available to all citizens and should be availed of if appropriate.

Citizens Information

0761 07 4000 www.citizensinformation.ie

Health and Safety Authority

LoCall: 1890 289 389 www.hsa.ie

Irish Equity

01 858 6403 www.irishequity.ie

Irish Human Rights and Equality Commission

LoCall 1890 245 545 www.ihrec.ie

Rape Crisis Centre

1800 778 888 www.rapecrisishelp.ie

Samaritans

116 123 (free to call) www.samaritans.org

Workplace Relations Commission

Lo-call: 1890 80 80 90 www.workplacelrelations.ie

APPENDIX 1

DEFINITIONS OF BULLYING, HARASSMENT, SEXUAL HARASSMENT AND VICTIMISATION

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, 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 to a pregnant woman about her appearance

- 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 or 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 harassment – texts, messages, emails, letters and notices
- 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

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

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.

APPENDIX 2

LEGISLATIVE AND REGULATORY FRAMEWORK

- Employment Equality Acts (1998-2015) – deals with dignity at work, bullying, harassment and sexual harassment
- Safety Health and Welfare at Work Act (2005) – deals with dignity at work, bullying and harassment
- Equality Acts (2000-2008) – deals with equal rights of employees
- Protected Disclosures Act 2014 – deals with so-called ‘whistleblowing’ but covering only permanent staff
- Workplace Relations Act 2015 – deals with Workplace Relations Committee services and processes of arbitration
- Non-Fatal Offences Against the Person Act (1997) – deals with harassment and assault
- Section 2 of Criminal Law (Sexual Offences) (Amendment) Act (1990) – deals with sexual assault
- Charities’ regulator – many theatre companies are registered charities and must satisfy the Charities Regulator that reasonable care and skill is used in carrying out its duties
- Case law
- Workplace Relations Committee (WRC) is available to complainants where internal employer procedures are unsatisfactory
- Labour Court provides appeals from Workplace Relations Committee outcomes
- Courts of Justice for criminal and civil cases

APPENDIX 3

REFERENCE DOCUMENTS AND SOURCE MATERIALS

- Harassment Toolkit from Amplify Women, endorsed by Women in Film and Television, #WakingTheFeminists, Screen Producers Ireland, Irish Equity, Broadly Speaking, Screen Directors Guild of Ireland, Women in Animation, and Writers Guild of Ireland
- Various Code of Governance documents from the Irish Film Board
- Code of Governance from the Hugh Lane Gallery
- Code of Governance Framework from the Arts Council
- Commitment to The Governance Code: Principles of Good Governance from Visual Artists Ireland
- Bullying Policy from the Abbey Theatre
- Employee Handbook from The Gate Theatre
- Employment Toolkit Part 1 (draft) from Theatre Forum Ireland
- Respect and Dignity for the Individual document from ESB
- Code of Conduct from IADT (Institute of Art, Design and Technology)
- Sexual Harassment Joint Statement by the Royal Shakespeare Company
- Guidelines for the Day of Testimonials by the Royal Court
- Harassment and Bullying Policy by the Royal Court
- Code of Behaviour by the Royal Court

