

Equality, Respect and Dignity in the Workplace Policy

1. Scope of the policy

This policy is applicable to all staff of the Educational Research Centre (ERC) who are employed on permanent, casual or fixed term basis; ERC service users; and visitors to the ERC's premises.

2. Policy

The Policy is a statement of commitment identifying actions to be taken to prevent Discrimination and promote Equality in line with the guidelines set out by the Irish Human Rights and Equality Commission and to support Section 42 of the Irish Human Rights and Equality Commission Act 2014.

ERC seeks to create and sustain a workplace which:

- Cherishes diversity and equal opportunity. The ERC rejects discrimination against employees, its service users and any member of the public on any grounds.
- Is safe, supportive and enriching for all its employees and service users.

To that end, the ERC is committed to ensuring that staff are free to go about their business and perform their work in an environment that is free from physical or verbal threat, harassment and intimidation.

ERC policy and practice promotes equality of opportunity and seeks to redress existing imbalances where they are identified. This Policy is enabled and supported through other ERC policies and procedures relating to issues such as recruitment, promotion, work and family responsibilities, and access.

The ERC is committed to the promotion of equality:

- By evaluating current policies, procedures and practices in accordance with the principle of equality and in accordance with Section 42 of the Irish Human Rights and Equality Commission Act 2014 and making staff aware of such policies and any related amendments.
- By promoting diversity of employee intake and ensuring the provision of adequate support structures to facilitate staff with particular needs.
- By fostering and building links with relevant bodies where applicable.

- By establishing appropriate structures through which complaints may be investigated.

All ERC Staff are expected to respect the sensitivities of others, especially where there may be a variation in the interpretation of acceptable behaviour resulting from different backgrounds and cultural values. This sensitivity will particularly apply when there is a power imbalance between the parties. All individuals have a responsibility to contribute to an environment of shared trust and mutual respect which form the basis of appropriate professional relationships.

Every employee of the ERC should be aware that all forms of harassment or bullying are unacceptable and that everyone has a duty to behave in an acceptable and appropriate manner.

3. Grounds of Discrimination

The Employment Equality Acts 1998-2015 are substantial pieces of anti-discrimination legislation in which the nine grounds of discrimination are described and are as follows:

1. Gender

A man, a woman or a transsexual (transgender or non-binary) person (note: specific protection is provided for pregnant employees or in relation to maternity leave);

2. Civil Status

Single, married, civil partnered, separated, divorced or widowed;

3. Family Status

A parent of a person under 18 years or the resident primary carer or a parent of a person with a disability;

4. Sexual orientation

Heterosexual, homosexual, bisexual or asexual;

5. Religion

Different religious belief, background, outlook or none;

6. Age

This applies to all ages above the maximum age at which a person is statutorily obliged to attend school;

7. Disability

This is broadly defined including people with physical, intellectual, learning, cognitive or emotional disabilities and a range of medical conditions;

8. Race

A particular race, skin colour, nationality or ethnic origin;

9. Membership of the Traveller community

People who are commonly called Travellers, who are identified both by Travellers and others as people with a shared history, culture and traditions, identified historically as a nomadic way of life on the island of Ireland.

4. Obligations of Employers

The Employment Equality Acts 1998-2015 prohibit discrimination under the nine grounds in employment, including vocational training and work experience. Employers may not discriminate against employees or potential employees on the basis of any of the nine grounds.

The main obligations of employers under the act comprise the following:

- Advertising
- Equal pay for like work
- Access to employment
- Vocational training and work experience
- Terms and conditions of employment
- Promotion or re-grading
- Classification of posts
- Dismissal
- Collective agreements.

5. Definitions

Discrimination in the workplace - *Discrimination* has a specific meaning in equality law. In the Employment Equality Acts the definition of discrimination focuses on whether a person has been treated less favourably in the workplace than another person in a similar situation on any of the nine grounds in Section 3 above.

Discrimination can be direct or indirect. While direct discrimination is often more obvious, indirect discrimination has a similar impact on employees. Indirect discrimination can happen when organisations' policies and practices have negative consequences for some people. For example, indirect discrimination can occur if a policy or practice, which is applied to all employees, has the effect of putting an employee at a disadvantage because of his or her experience of mental health difficulties.

Harassment is defined as any act or conduct which is *unwelcome and offensive, humiliating or intimidating*. It is unlawful for a person to harass an individual on any of the nine grounds outlined in Section 3 above. To constitute harassment, the behaviour can be a one-off event or persistent and repeated behaviour. It can be an act or conduct that is:

- **Non-verbal** – looks, gestures, isolation, exclusion, refusing to listen to a point of view, unwelcome/offensive/humiliating/intimidating pictures, e-mails, text messages or any other materials;
- **Verbal** – spoken words, shouting, unfair and excessive criticism, jokes, comments;
- **Physical** – actions such as pushing or shoving.

These examples are not exhaustive and offences of a similar nature are also prohibited.

Sexual harassment is defined under the Employment Equality Act (1998-2015) as including *all unwelcome and sexually, or otherwise on the grounds of gender, offensive, humiliating or intimidating actions involving acts of physical intimacy, spoken words,*

gestures, or the production, display or circulation of written material or pictures, or requests for sexual favours. Sexual harassment refers to deliberate sexual comments and gestures or any other conduct of a sexual nature that is *embarrassing, demeaning or compromising*. Sexual harassment may be

- explicit or implicit
- a single incident or recurring over a period of time
- directed at an individual or at a group.

In defining and identifying sexual harassment it is the *effect* of the behaviour that is relevant, not the *intent*. That is, it is the impact of the behaviour on the person affected by the behaviour that determines whether sexual harassment has occurred.

Sexual harassment does not refer to normal human interaction and behaviour that is mutually acceptable to the parties involved. Friendships (whether sexual or otherwise) are a private concern. Sexual harassment may occur between any combination of genders.

Sexual harassment may comprise one or more of the following examples:

- transmitting, through any media, sexually suggestive messages or images
- displaying sexually suggestive or pornographic pictures, calendars etc.
- leering, offensive gestures or whistling in a sexually suggestive manner
- unwelcome sexual advances
- unwelcome pressure for social contact
- sexually suggestive jokes, remarks or innuendo
- unwelcome physical contact
- any suggestion of reward for sexual or social favours or of victimisation for non-compliance
- any suggestion of promotion or advancement at work in return for sexual favours or of victimisation for non-compliance
- any conduct that denigrates, ridicules or is intimidatory or physically abusive of the employee because of his, her or their gender.

These examples are not exhaustive and offences of a similar nature are also prohibited.

Such conduct is damaging to the harassed person, the perpetrator, the ERC's working community and it will not be tolerated by the ERC.

Sexual harassment is often associated with the abuse of power by one person over another. It may also involve harassment of an individual by a group. It most often occurs in relationships of unequal power or authority as in supervisor/subordinate relationships, although it may also take place between peers.

Bullying is also a form of harassment. It is the misuse of power or position to persistently domineer, humiliate, intimidate and undermine an individual. The Task Force on the Prevention of Workplace Bullying (2001) defines bullying as *repeated inappropriate behaviour, direct and indirect, whether verbal, physical or otherwise,*

conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual's right to dignity at work. An isolated incident of the behaviour described in this definition may be an affront to dignity at work, but, as a once off incident, is not considered to be bullying.

The ERC is committed to prevent bullying and to act promptly where it exists. While victims of bullying cannot seek redress under Equality Legislation, other legal avenues of redress exist. Bullying is not defined in legislation but it is legislated for under the Safety, Health and Welfare at Work Act, 2005 and the Safety, Health and Welfare (General Application) Regulations, 2007.

Bullying manifests itself as various types of behaviour, including behaviour which may take the following forms:

- physical contact
- humiliation, intimidation, verbal abuse, aggression
- victimisation, exclusion and isolation
- intrusion through pestering, spying or stalking,
- giving repeated unreasonable assignments and duties which are obviously unfavourable to one individual
- giving repeated impossible deadlines or tasks
- implied threats
- unfair and excessive criticism
- blame for things beyond the person's control
- undermining behaviour, excessive monitoring of work
- vandalism of personal property

These examples are not exhaustive and offences of a similar nature are also prohibited and will be dealt with accordingly.

Other Inappropriate Behaviour

Harassment can be a once-off incident of inappropriate behaviour which is predicated on one of the nine discriminatory grounds set out above. Bullying refers to repeated inappropriate behaviour which does not refer to any of the nine grounds.

However, inappropriate behaviour which is neither repeated nor linked to one of the nine discriminatory grounds may occur, and an employee should use the procedures set out herein to have the issue addressed.

Performance Management – the legitimate management of performance, carried out in accordance with the Educational Research Centre's performance management system and in an appropriate manner, does not constitute bullying, harassment or inappropriate behaviour.

6. The Effects of Harassment

Harassment and bullying have serious ramifications for both individuals and the ERC. They can seriously affect the health and well-being of the individual. They can undermine the self-confidence of staff by communicating to them that they are not taken seriously or accorded the personal respect to which they are entitled. They also impact on the organisation as a whole and on its stakeholders and may have serious negative implications. For example, they can:

- affect the reputation of the ERC
- decrease job/study performance and work satisfaction
- increase absenteeism
- create high levels of tension between staff.

7. Responsibilities and expectations of ERC's staff members

Appropriate behaviour for staff members of the ERC is one which recognises the right to dignity of all individuals, and imposes a duty of respect on them, whereby all staff members are treated with consideration, courtesy and respect, without harassment, or physical or verbal abuse, or actions that can be interpreted as bullying or demeaning of others.

In view of ERC's stated commitment to equality of treatment for all individuals all staff members are expected to act with tolerance, sensitivity, respect, and impartiality towards others in the workplace and while carrying out work duties. This is especially so where there may be a variation in the interpretation of acceptable behaviour resulting from different backgrounds and cultures. It particularly applies also where a power imbalance exists. Power imbalances can exist in many forms including seniority, membership of a group and level of knowledge about systems or processes.

All staff members have a duty to behave and conduct themselves so as to respect the right of others to dignity, courtesy and respect at all times. All members should refrain from engaging in acts of harassment or bullying and work to deliver a positive environment in which to conduct all work activities.

Every staff member is responsible for safeguarding his/her own safety and welfare, and that of his/her colleagues who may be affected by his/her actions, or omissions, while at work. Therefore each person has a duty not to place the safety, health and welfare of colleagues at risk by engaging in harassment or bullying, and where in a position of authority, to take the appropriate steps to stop bullying or harassment if or when it occurs.

Staff members should also co-operate by providing any relevant information when an allegation of harassment or bullying is being looked into whether in an informal or formal stage. Any person who believes they are being subjected to harassment or bullying is encouraged and, indeed, expected to report such incidents and to engage in a co-operative manner with any process undertaken with a view to reaching an effective resolution or having the matter fully investigated.

Action to take if you are being bullied/harassed in the workplace

If you believe you are being bullied or harassed in the course of your employment, please take account of the following key points:

- Remain as calm as possible.
- Review the Educational Research Centre's Equality, Respect and Dignity in the Workplace Policy.
- Record the incidents of bullying/harassment, including the dates, times and what was said/done during the alleged incidents, and if there were any witnesses to the events.
- Write down how the incident made you feel at the time.
- If possible, speak to the alleged bully/harasser and inform him/her that you find his/her behaviour unacceptable and ask him/her to stop immediately.
- Speak to your Manager or HR about the incidents and the Equality, Respect and Dignity in the Workplace Policy.
- Keep copies of any inappropriate materials you receive, if any, from the alleged bully/harasser as this may be needed as evidence at a later date.
- Do not feel that you have encouraged this behaviour or brought this on yourself.
- Be assured that the ERC will not tolerate inappropriate behaviour and any complaints regarding such behaviour will be taken seriously.
- Remember, it is difficult for the ERC to take action if incidents of bullying/harassment are not reported.

8. Complaints Procedure

The ERC takes all allegations of harassment or bullying very seriously. An individual is free to make a complaint. He or she will not be victimised for making a complaint. A complaint should be made within a reasonable period of time.

However, every staff member should be aware that where, following an investigation, it is found that a complaint is malicious, frivolous or vexatious, the complainant may face disciplinary action up to and including dismissal in serious cases, particularly in cases where the good name and reputation of another member of the ERC and/or of its stakeholders has been unjustifiably attacked.

An individual who experiences harassment or bullying in the course of his or her work will have the support of the ERC in putting a stop to the behaviour. Complaints will be addressed promptly as a priority, and will be treated with fairness and sensitivity and in as confidential a manner as possible. There is a two-tiered approach in the procedure – informal and formal – to address the issue of bullying or harassment in the workplace.

Informal Procedure

The purpose of the informal procedure is to ensure that complaints of bullying, harassment or other inappropriate behaviour will be handled effectively, efficiently and in a confidential manner, ideally at local level.

- If you feel as if you are being bullied or harassed, the first step you should take is to approach the individual and ask him/her to stop the offending behaviour. You should inform the alleged bully/harasser of the ERC's 'Equality, Respect and Dignity in the Workplace Policy', and advise him/her that if the behaviour continues, you may have to make a formal complaint.
- If you are unsure how to approach the individual in this way, you can ask for advice from your Manager or HR.
- If this approach fails to resolve the issue, or if you feel unable to raise the issue directly with the alleged bully/harasser, you should bring your complaint to the attention of your Manager/another Manager/HR. The relevant person will make a note of the details of your complaint and will discuss possible courses of action with you.
- Such courses of action may include mediation by the Manager or another appropriate person (this may be an external professional mediator should the ERC deem this appropriate).

In instances where you are unsure whether the behaviour constitutes bullying/harassment, you should discuss this with your Manager or HR. Any individual involved in the informal procedure is bound by confidentiality.

Informal Review Procedure

Prior to the use of the formal procedure, as set out below, and, except in cases of gross misconduct, a verbal, non-recorded informal review session shall take place in the first instance between the individual concerned and a member of management.

Management shall advise the staff member that this is an informal review session according to the terms of the disciplinary procedure. It will be made clear at this point, that, if the required specified improvements are not forthcoming, the first stage of the disciplinary procedure proper will apply.

Formal Procedure

In the event that the informal complaint has failed or the informal process is inappropriate in the circumstances, the complainant can progress to the formal procedure. Choosing to bypass the informal process will not reflect negatively on the employee concerned. These are the steps that individuals must follow in the formal procedure.

Lodging a Formal Complaint

- Put the initial complaint in writing and submit to Manager or HR.
- If Manager is involved in the incident, submit the complaint to the next in succession or to HR.
- HR will meet with complainant to confirm receipt of the complaint and ensure that the procedures involved are understood. The Equality, Respect and Dignity in the Workplace Policy will be provided.

- All complaints will be treated in strictest confidence, as far as practicable, and will be handled with sensitivity.
- Only individuals necessary to the investigation will be involved in the process, and all parties will be bound by confidentiality. Breaches of confidentiality may result in disciplinary procedure being invoked.
- The person complained against will be notified in writing of the details of the complaint.
- Both parties will be given a general outline of timeframes for processing the complaint.

Investigation

- An investigation will be initiated by the ERC/HR representative who received the complaint, and an investigation panel will be put in place. This panel will consist of a minimum of two persons, and will include a representative of management and a HR representative. The Educational Research Centre may engage an external independent investigator if it is deemed appropriate in the circumstances.
- If one of the parties to the complaint is dissatisfied with one of the individuals on the investigation panel, he/she/they should lodge the objection in writing with the ERC/HR representative who initiated the investigation. The ERC/HR representative will give the objection due consideration, and make a determination on whether the investigation panel should be changed, or whether the objection does not have sufficient grounds to require this course of action.
- The investigation will be thorough, objective and take all reasonable steps to establish the validity or otherwise of the complaint. All parties will be treated with sensitivity and respect throughout.
- The investigation panel will explain the steps in the process and likely timeframes to the complainant and the person complained against.
- Meetings will be held with all relevant parties to establish a comprehensive understanding of the facts of the complainant.
- All parties, including witnesses, will have the right to be accompanied by a colleague at these meetings.
- Notes will be taken at these meetings and will be agreed and signed off by the participants. The notes will be forwarded to the complainant and the person complained against. Any other relevant evidence will be similarly forwarded to the appropriate parties.
- Where necessary, parties to the complaint may be suspended with pay to allow for a fair and thorough investigation. Such suspension is **not** a disciplinary sanction and this will be made clear to the relevant individuals, should it occur.

Outcome of Investigation

- When the investigation has been completed, a report will be compiled by the investigation panel outlining the details of the investigation and what evidence was collected. The conclusion of the report will state whether or not the bullying/harassment complaint has been upheld and may make a recommendation on what action to take (e.g. disciplinary procedure should be invoked, or training or counselling is required).
- The report will be submitted to the ERC/HR representative who initiated the investigation who will then review it for thoroughness, objectivity and reasonableness.
- The ERC/HR representative will forward the report to the complainant and the person complained against.
- Both parties have the right to comment on the findings of the report in writing, within 7 days of the report being issued.
- Subsequent to receipt of the report, the complainant and the person complained against will be informed of the next steps (e.g. disciplinary procedure being invoked).

Disciplinary Action

- If a disciplinary hearing is required, the organisation's disciplinary procedure will be followed, and all rights of natural justice will be afforded to the employee concerned.
- The disciplinary procedure should be forwarded to the employee in advance of the hearing, along with any other information that is pertinent to the hearing.
- Where bullying/harassment is found to have occurred, disciplinary action, up to and including dismissal, may be required.
- In cases where it is discovered that the complainant made a false accusation of bullying/harassment, the disciplinary procedure may be invoked, and may result in a disciplinary sanction up to and including dismissal.

Where a complaint is upheld against a non-employee, efforts will be made to ensure that the individual is dealt with appropriately by his/her employer. If this is not possible, the organisation will take the necessary steps to prevent the situation arising in the future, which could involve terminating the services of that person or organisation.

Either party may appeal the outcome within seven days to the investigation panel. The appeal will then be lodged with the CEO who will identify an external assessor (with no previous involvement in the case) who will report to the CEO (or Chairperson of the Board where the CEO is the subject of the complaint).

The outcome of the appeal will be reviewed by the Board, which will then recommend a final course of action. The CEO is responsible for ensuring that the recommended actions are implemented. In instances where the CEO is the person making the appeal,

the Chair of the Board shall be responsible for overseeing the implementation of the recommended course of action.

9. Retaliation or Victimisation

Retaliation or victimisation of any kind against an employee for making a complaint or taking part in an investigation in the context of this policy, may give rise to disciplinary action, up to and including dismissal.

The Disciplinary Rules and Procedures are listed in the Disciplinary Procedures policy, the main elements of which are set out below:

Stage 1: Verbal Warning

Your supervisor/immediate superior will warn you verbally of the specific aspect of your work or conduct which is below standard (stating clearly that this is the first warning) and will advise what improvement must be made. The supervisor/ immediate superior will note that a verbal warning has been issued and shall advise the CEO.

Stage 2: Written Warning

You will be issued with a written warning by the CEO's office making it clear that you will be given a final written warning and/or suspension if the work or conduct below standard does not improve.

Stage 3: Final Written Warning and/or Suspension

You will be issued with a final written warning and/or suspended if your conduct or work does not improve to a satisfactory level after the written warning. This written warning will make it clear that your employment may be terminated if your conduct/performance does not improve to an acceptable level.

Stage 4: Dismissal

If your conduct/performance does not improve following Stage 3 above you will be dismissed. The above procedure is intended to give you every opportunity to improve your conduct or performance. Should you wish to be represented at any of the above stages of disciplinary procedure, you may request permission for such from management. Such permission shall not be unreasonably withheld.

The above procedure is designed for cases of misconduct, incompetence or poor performance. In cases of more serious misconduct (see below) you may be liable to summary dismissal following a full investigation.

Grave Breaches of Discipline

The Centre reserves the right in cases of gross misconduct to suspend you without pay or dismiss you from your employment. The following list, while not exhaustive, is an outline of offences warranting dismissal.

- (a) Assault on another member of staff.
- (b) Sexual harassment of a member of staff.

- (c) Theft, malicious damage or misuse of Centre property or that of another employee.
- (d) Misrepresentation or falsification of an employment application or any subsequent documentation relating to employment.
- (e) Interfering with or falsifying Centre records.
- (f) Refusal to carry out reasonable and lawful instructions.
- (g) Being in possession of controlled drugs or alcohol on Centre premises whether such drugs or alcohol are for own use or distribution or sale to others.
- (h) Reporting for work under the influence of drugs or alcohol such that in the opinion of your immediate supervisor/superior you are unfit for work.
- (i) Carrying out unauthorised work while on Centre premises or with Centre materials.
- (j) Engaging in remunerative employment while absent from work irrespective of whether the absence is covered by a medical certificate.
- (k) Failure to comply with safety regulations.

In these circumstances the ERC may dismiss an employee without recourse to the stages of the procedure outlined above. This list is not intended to be exhaustive, but cites some examples of incidents, which may warrant dismissal.

10. Summary

- The ERC is committed to providing a work environment which is free of harassment, bullying and any other inappropriate behaviour and will implement and promote measures to protect the dignity of employees, service users and visitors to ERC's premises, and to encourage respect for all in the workplace.
- The ERC promotes a work environment free from harassment, sexual harassment, bullying, and racism, disrespectful and discriminatory behaviour.
- These behaviours will not be tolerated and should these behaviours occur, the ERC will seek to prevent a reoccurrence by dealing effectively and fairly with any complaints made alleging such conduct.
- The ERC is also committed to protecting the dignity of employees by welcoming diversity and promoting employment equality in all its dealings with employees.

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