

Dignity & Respect in the Workplace Policy

Adopted by the IBO on: 28th September 2020

Reviewed on: 8th August 2022

Signed:



Aliye Cornish Moore, CEO

Dated:

The Irish Baroque Orchestra is committed to artistic excellence for public benefit through an open and inclusive culture which places music first and finds strength in diversity.

The artistic ambitions of the organisation are underpinned by common values of respect, transparency, communication and a commitment to a shared vision for the orchestra.

Dignity and respect at work policy

The policy applies to all those affiliated with the IBO, whether permanent or fixed-term, full-time or part-time, and irrespective of length of service. The policy also applies to others working or associated with this company, such as freelance artists, volunteers, clients, agency workers, contractors, suppliers and other service providers. Throughout this policy all these categories of workers are grouped as ‘employees, contractors and freelance artists’.

The **Irish Baroque Orchestra** is committed to protecting the dignity and respect of all those who work together throughout all its projects including rehearsals, performances, recordings, broadcasts, and education and outreach work. In particular, the Irish Baroque Orchestra is committed to ensuring that the workplace is free from any form of bullying or harassment, and that our work environment is conducive to providing high-quality artistic work in an atmosphere of respect, safety and equality.

No bullying or harassment within the workplace or in connection with the work of the Irish Baroque Orchestra will be tolerated. This policy extends to behaviours that occur outside the work premises, such as at social functions, festivals, award ceremonies, residencies, workshops or training events, or through social media groups, that are connected in any way with the workplace or a particular project

and the people working there. Complaints of bullying or harassment may be dealt with either in a formal or an informal way, or by alternative means, as described below.

Complaints by employees or other persons in the workplace, of bullying or harassment at work, will be treated with fairness, sensitivity, respect and (as far as possible) confidentiality for all parties concerned. No presumption of inappropriate behaviour will arise simply as a result of a complaint being raised. Rather, any person accused of bullying and/or harassment will be afforded natural justice and treated with fairness and sensitivity.

The Irish Baroque Orchestra's management, its employees, and any other person engaged with the organisation has responsibility for creating and contributing to the maintenance of a work environment free from bullying and/or harassment. There is a responsibility on the Irish Baroque Orchestra to ensure the prevention of incidents of bullying and/or harassment, and to take action should any incidents be brought to their attention. Employees, contractors and freelance artists will be requested to cooperate with the investigation of complaints of bullying and/or harassment in the workplace. Persons, including parties to a complaint, witness and decision makers, involved in the processes provided for in this policy are protected from victimisation as a result of their participation.

Nothing in this policy limits the right of the Irish Baroque Orchestra to investigate any matter that may relate to bullying and/or harassment in circumstances where a complaint has been made. All employees, contractors and freelance artists continue to have an obligation to cooperate with any such investigation.

Harassment, sexual harassment and bullying

Harassment

Harassment is any form of unwanted conduct 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. Harassment is related to any of the following grounds:

- Family status
- Civil status
- Sexual orientation
- Religious belief (or lack thereof)
- Gender
- Age (16+)

- Race, colour, nationality or ethnic or national origin; or
- Membership of the Travelling community
- Disability

For the purpose of the above definition, conduct includes acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material. To constitute harassment, the behaviour can be a once-off event or persistent and repeated behaviour. The following are some specific examples of the forms such conduct might take:

- Verbal harassment – spoken words, shouting, ridicule, unfair or excessive criticism, jokes, comments or songs
- Physical harassment – pushing, shoving or any form of assault
- Written harassment – including production of text messages, emails, notices, or any other written notices including online and social media
- Intimidatory harassment – gestures, posturing or threatening poses
- Visual displays such as posters, emblems or badges
- Isolation or exclusion from social activities
- Excessive monitoring of work
- Unreasonably changing a person's job content or targets
- Pressure to behave in a manner that the person thinks is inappropriate – e.g. being required to dress in a manner unsuited to a person's ethnic or religious background where there is no objective need to do so.
- Gender-based conduct – conduct that denigrates, ridicules or is intimidatory or physically abusive of a person because of his or her sex, such as derogatory or degrading abuse or insults that are gender-related.

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

Sexual harassment

Sexual harassment is any form of unwanted 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.

It is up to the person to decide which behaviour is unwelcome, irrespective of the attitude of others to the matter.

For the purposes of the above definition, conduct includes acts, requests, spoken words, gestures or the production, display or circulation of written words, pictures or other material. Sexual harassment may occur between any persons: men and women, persons of the same gender, or non-binary. A single incident may constitute sexual harassment. The following are some specific examples of the forms such conduct might take:

- Non-verbal conduct of a sexual nature – looks, gestures, whistling, suggestive symbols, pictures, written materials, faxes, emails or text messages
- Verbal conduct of a sexual nature – advances, propositions, suggestions, jokes, comments or innuendo and continued suggestions for social activity outside the workplace
- Physical conduct of a sexual nature - groping, kissing, fondling, patting, pinching, unnecessary touching, assault or rape

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

A person is protected from different treatment because he/she has rejected or accepted the sexual harassment or harassment and IBO may not use this information as a basis for a decision in respect of this person.

Bullying

Any form of bullying is prohibited by the Irish Baroque Orchestra. Bullying is defined as 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 or engagement as a freelance artist or contractor which could reasonably be regarded as undermining the individual's right to dignity at work. These three conditions will apply to test whether or not any behaviour can be described as bullying:

- Inappropriate behaviour
- Repeated
- Capable of undermining dignity at work
An isolated incident of the behaviour described in this definition may be an affront to dignity at work, but, as it is not repeated, it is not considered to be bullying.

The following is a non-exhaustive list of examples of types of bullying, and offences of a similar nature are also prohibited and will be dealt with accordingly:

- Verbal abuse, insults
- Humiliation
- Intimidation, aggression or threatening behaviour
- Isolation or exclusion with negative consequences
- Intrusion by pestering, spying and stalking
- Repeatedly manipulating a person's job content and/or targets
- Withholding work-related information
- Unfair and excessive criticism
- Undermining behaviour
- Excessive monitoring of work.

The behaviour must reasonably be capable of undermining dignity at work.

Bullying is behaviour that is inappropriate at a human level – e.g. purposely undermining an individual, targeting them for special negative treatment, the manipulation of their reputation, social exclusion or isolation, intimidation, aggressive or obscene behaviour, jokes that are obviously offensive to one person, intrusion by pestering, spying and stalking. These are all examples that share the feature that they are unacceptable at the level of human interaction.

Intention of perpetrator

The intention of the perpetrator of bullying or harassment is irrelevant. The fact that the perpetrator has no intention of bullying or harassing the victim may not be a defence.

Performance management

The reasonable and essential discipline arising from the good management of the performance of a person at work does not amount to bullying or harassment. Similarly, an action taken that can be justified with regard to the safety, health and welfare of people does not amount to bullying or harassment.

Complaints procedure

All employees, contractors and freelance artists have a right to make a complaint if they feel they have been bullied and/or harassed, and they should follow the steps in the following procedure. All complaints will be taken seriously, and the procedure will be handled with fairness, sensitivity and due respect for the rights of both the complainant and the alleged perpetrator. There is a two-tiered approach in the procedure – informal and formal – to address the issue of bullying or harassment in the workplace.

During any investigation into a complaint, the principles of natural justice must be adhered to. External assistance may be necessary to deal with complaints in some circumstances so as to ensure impartiality, objectivity and fairness in an investigation.

The informal procedure

Method of making an informal complaint

Any person who believes that he or she is being bullied or harassed should, where possible, indicate directly to the person complained of that the behaviour in question is unacceptable.

If the person believes that this approach is not suitable or has been unsuccessful, they may then make an informal complaint.

Informal complaints should be addressed to the CEO. If the CEO is involved in the incident, the complaint should be submitted to a member of the Board of Directors. Arrangements may be made to employ an external party to facilitate resolving the issue.

An informal complaint may be verbal or written.

The Irish Baroque Orchestra will designate a person to handle the complaint. – in the first instance, this will be the CEO or, if the complaint involves the CEO, a member of the Board. If the complaint was

verbal, a written note of the complaint will be taken by the CEO or member of the Board, as appropriate, and a copy given to the complainant.

The CEO reports to the Chair on any dignity and respect issue.

Support contact person

In the event that any employee, contractor or freelance artist has any question or query about the operation of this policy, or requires any clarification about it, they may approach the CEO for advice, which will be given in strictest confidence. Please note that speaking to the CEO is not the same as making a formal or informal complaint. The CEO has been designated as the contact person in respect of this policy. If the complaint is about the CEO, the support contact can be a member of the Board.

Procedure that will be followed when receiving an informal complaint

The facts and context of the complaint will be established, and the next course of action in dealing with the matter under the informal procedure will be determined. Other possible courses of action available to the complainant, including mediation, will be discussed.

• Where specific examples are given

If the complaint concerns bullying and/or harassment and includes specific examples of the behaviour complained of, the person complained against will be presented with the complaint by the CEO, or member of the Board, and given a chance to respond.

After the response is received (or a reasonable period of time has elapsed without a response having been received), the CEO, or member of the Board, will review the facts initially to progress the issue to resolution so that both parties can return to a harmonious working environment without bullying or harassment being a factor.

If the behaviour complained of does not concern bullying or harassment as defined, an alternative approach will be put in place and a rationale recorded.

• Where no specific examples are provided

If no specific examples are provided, the CEO, or member of the Board, will review the complaint initially to progress the issue to resolution and exploring means of protecting and repairing workplace relationships.

A record of all stages of the process, the complaint, the first meeting, action agreed and signed records of the final meeting will be kept. The purpose of the records, which will not include detail of discussions, is to provide evidence that the complaint was dealt with in an appropriate manner.

All parties will maintain, insofar as possible, the confidentiality of the informal process. Breaches of confidentiality will be treated as a serious disciplinary matter.

Resolution

When resolution is found through the informal procedure, both parties will be given support or periodical reviews, as appropriate. These may include counselling or other appropriate interventions.

Where a complaint is found not to have been made in good faith, the complainant may be the subject of disciplinary action. This will be considered by the CEO, or member of the Board, for review to ascertain whether or not the complaint was made in good faith.

Resolving the problem by mediation

Mediation is an alternative method of resolving issues relating to bullying and harassment. Mediation involves the parties seeking to arrive at a solution through mutual agreement, with the support of an independent third party, internal or external as appropriate, rather than through an investigation and decision.

Mediation provides a confidential opportunity for the person who feels that he/she has been bullied or harassed, and the person accused of carrying out this inappropriate behaviour, to discuss the matter and to reach an agreement on their continuing working relationship.

Mediation is conducted in private, and is directly between the parties concerned, with the support of a mediator, who will act as an independent facilitator. Either party may withdraw from the process at any time by notifying the mediator, in writing, that they wish to do so.

If both parties agree to resolve the issue by mediation, the CEO will arrange the mediation process. If the CEO is involved in the issue, you may be directed to the designated person on the Board who can assist in organising a mediator. An appropriate person, acceptable to both parties, from within or outside the organisation, will be assigned as mediator.

If the mediation process results in an agreement acceptable to both parties, the mediator may draw up a written record of the terms of the settlement for signature by both parties.

If the matter is resolved by mediation the matter will be considered closed and no further action will be taken.

If mediation breaks down or fails to achieve its goal, the only other option is to have the matter resolved by independent investigation. A person involved in conducting the mediation process will not be involved in conducting the investigation process. Resolving the matter by investigation may also be considered if either party feels that it is inappropriate to resolve the matter by mediation.

Formal procedure

In cases where a person believes that an informal resolution is not a suitable means of addressing his or her concern, or where the person believes that their previous recourse to the informal complaints

procedure has been unsatisfactory, a person may make a formal complaint of bullying and/or harassment. Choosing to bypass the informal process will not reflect negatively on the person concerned.

In cases where a person makes an informal complaint, but where management believes, because of the gravity of the subject matter of the complaint or for some other reason, that the informal complaints procedure is inadequate to address the complaint, the complaint may be dealt with by using the formal complaints procedure.

Method of making a formal complaint

Formal complaints should be made in writing, signed and dated. The complaint should be confined to precise details of alleged incidents of bullying and/or harassment, including the dates of such incidents and the names of any witnesses.

Formal complaints should be addressed to the CEO. If the CEO is involved in the incident, the complaint should be submitted to a member of the Board. The CEO and/or member of the Board may make arrangements for someone to conduct an investigation.

On receipt of a formal complaint, an investigatory panel will be designated by the CEO or member of the Board, whichever is appropriate. The investigator panel may consist of up to two persons, and may include management or board representatives. The organisation may engage an external independent investigator/s if it is deemed appropriate in the circumstances. In exceptional circumstances, if either party has an objection to the investigatory panel, the CEO or member of the Board may designate an alternative panel. An objection to the designated investigatory panel must be made in writing to the CEO or member of the Board in a timely fashion, and must clearly outline the grounds of the objection.

Complaints in writing

Where a formal complaint is made but the complainant declines to submit a written statement, then a written record will be made of the complaint by the investigatory panel. The complainant will be asked to sign this record.

In the event that the complainant refuses to sign this record, the complainant will be made aware that the ability of the Irish Baroque Orchestra to investigate the complaint on a formal basis may be compromised by any failure of the complainant to co-operate with the procedure in place. Efforts will be made to clarify this issue before any further steps are taken. The Irish Baroque Orchestra reserves the right to investigate a complaint, even where withdrawn or where the written record has not been confirmed by the complainant, where the issues described are sufficiently serious.

The complainant will be advised of the purpose and intention of the formal process, the procedures and time frame involved, and the possible outcomes. He or she will be assured of support as required throughout the process. He or she will be given a copy of this policy.

Procedure that will be followed

The investigation will be governed by the terms of reference, which will include the following provisions:

- A provision to the effect that the investigation will be conducted in accordance with this policy
- An indicative time frame for the completion of the investigation
- Provisions relating to the scope of the investigation, indicating that the investigator will consider whether the complaint falls within the definition of bullying or harassment at work and whether the complaint has been upheld.

The person complained against will be notified in writing that an allegation of bullying and/or harassment has been made against him or her. He or she will be advised of the purpose and intention of the formal process, the procedures and time frame involved, and the possible sanctions that may apply at a later disciplinary process where a complaint has been upheld. He or she will be assured of support, as required, throughout the process. A meeting will be organised at which he or she is given a copy of the complaint in full and any other relevant documentation, including this policy. He or she will be given time to consider the documentation and an opportunity to respond either at the time, or later in writing or at a further interview.

Failure to participate in the process may be considered a disciplinary matter. Further, failure to participate will not prevent a report being issued on the matter.

The investigator will meet with the complainant, the person complained against, and any witnesses or relevant persons, on an individual basis, with a view to establishing the facts. The complainant, the person complained against, and any witnesses will be entitled to be accompanied by a work colleague/ trade-union representative/family member/friend, legal representation if applicable, at any meeting.

All interviews with parties and witnesses will be conducted sensitively and with due respect to the rights of all concerned. The investigation will be conducted on a confidential basis, insofar as that is possible. Any intentional breach of confidentiality by anyone involved in such a process may be treated as a disciplinary matter.

A copy of each person's statement will be provided to them for confirmation prior to being shared with the relevant parties. Where a party resiles from their position at interview, the investigatory panel will note their comments, however they will not amend the original statement unless they have erred.

During the investigation

All parties will continue to work normally during the investigation, unless directed otherwise. Where necessary, parties to the complaint will be suspended with full pay (in the case of employees) or as per agreed contract fees for freelance artists to allow for a fair and thorough investigation. Such a suspension is **not** a disciplinary sanction, and this will be made clear to the relevant parties.

The management will make every effort to ensure the protection of all involved in the investigation.

The parties to the complaint should not discuss the substance of the complaint with each other or with witnesses.

Any effort by any party to intimidate or otherwise influence any complainant, respondent or witness during the course of an investigation will be regarded as a disciplinary matter of the upmost gravity.

Outcomes of the Investigation

Action where the complaint is upheld

If the complaint is upheld, and the Management/Board have accepted the findings of the investigation report, the matter will be treated as a serious disciplinary issue, and the management will follow the appropriate disciplinary procedures with the relevant employee, contractor or freelance artist, which may lead to disciplinary action up to and including dismissal or contract termination. If the perpetrator is not an employee – e.g. if he or she is a contractor or a freelance artist – other appropriate measures will be taken.

The management and/or Board may also take other appropriate action to support and protect the victim and/or ensure that similar situations do not arise in the future

Action where the complaint is not upheld

If the complaint is not upheld but the complainant is found to have acted in good faith, the management may take appropriate measures to support both the complainant and the person complained against. This will include taking appropriate measures to ensure that other parties to the investigation are made aware that the complaint was not upheld.

Where a complaint is not upheld and is found not to have been made in good faith, the complainant may be the subject of disciplinary action. The same principle will apply to witnesses giving evidence in bad faith.

Preservation of rights and prevention of victimisation

Making a complaint under this policy will not affect an employee's, contractor's or freelance artist's statutory rights. No one will be victimised for making a complaint in good faith or for acting in good faith as a witness in an investigation.

Appeals

If either party is dissatisfied with the outcome of the formal complaints' procedure, they may lodge an appeal within seven working days of receipt of notification of the outcome of the process.

The reason for the appeal should be outlined in writing to the management. The appeal will be heard by another person(s) of at least the same level of seniority as the original investigator/investigatory panel. The appeal will focus only on the aspect of the case cited by the appellant as being the subject of the appeal.

The grounds of the appeal and any outcome and methodology employed will be appended to the investigation file. Please note that the final report of the investigation itself will not be subject to amendment.

Resolution

Both parties will be given appropriate support and periodical reviews, insofar as is reasonable, after the formal process has been concluded.

External investigation

In any situation where, by reason of the size of the management team, seniority of a complainant or of a person complained against, or for any other reason it is not appropriate for a formal complaint, informal complaint or appeal to be investigated by the management or Board, the Irish Baroque Orchestra reserves the right to appoint an appropriate external person/organisation to carry out the investigation. Any such external person will carry out his or her functions in accordance with the provisions of this policy, and the Irish Baroque Orchestra will give appropriate effect to the findings of such an external person.

This policy may be amended from time to time at the discretion of the the Irish Baroque Orchestra and where changes are made, the policy will be published and notification of changes made to those concerned.