

# C.B.S. SEXUAL HARASSMENT POLICY FOR SCHOOLS

## 1. Introduction

- 1.1 The school recognises that all employees have the right to a workplace free from sexual harassment and is fully committed to ensuring that all employees are able to enjoy that right.

Sexual harassment is illegal under the Employment Equality Act 1977. The Labour Court has determined that "freedom from sexual harassment is a condition of work which an employee of either sex is entitled to expect". The court will accordingly treat any denial of that freedom as discrimination under the terms of the Employment Equality Act 1977. The Department of Equality and Law Reform Code of Practice entitled "Measures to Protect the Dignity of Women and Men at Work" 1994, urges employers and employees to adopt practices to ensure that the working environment is free from sexual harassment and to develop a framework for dealing effectively with complaints of sexual harassment as they arise. Complaints of sexual harassment must always be treated seriously and dealt with in a sensitive manner.

There is a responsibility on all employees to ensure a workplace free from sexual harassment for all other employees, and to be aware of this Policy.

Management shall be required to implement this Policy and set a standard of behaviour by their own example.

Any complaints of sexual harassment shall be fully and properly investigated and, if substantiated, will be regarded as grounds for disciplinary action up to and including dismissal. An attempt will be made to resolve the complaint informally in the first instance but if this is not possible, a formal procedure will be invoked. Confidentiality will be ensured, insofar as is possible, at all times during the investigation for all parties involved.

- 1.2 ***What is Sexual Harassment?*** Sexual harassment means unwanted conduct of a sexual nature or other conduct based on a person's sex which affects the dignity of men and women at work.
- 1.3 Examples of sexual harassment include:
- a) Unwanted physical or verbal advances.
  - b) Unwanted touching or physical gestures.
  - c) Comments and remarks of a sexual or discriminatory nature.
  - d) Unwelcome comments about personal appearance.
  - e) Demands of sexual favours.
  - f) Displays of pin-ups and pornographic material.

g) Innuendoes of a sexual nature or based on a person's sex.

*This list is not exhaustive.*

Sexual harassment may be perpetrated by a Superior, a subordinate, a colleague or a non-employee and may take place outside the workplace. The degree of control available to the employer in this particular circumstance will be relevant.

## **2. School Environment & Culture**

### **2.1 School Commitment to Cultivate an Environment Free from Sexual Harassment**

The school recognises that all employees have the right to a workplace free from sexual harassment and is fully committed to ensuring that all employees and students are able to enjoy that right and that sexual harassment will not be tolerated.

Management shall be required to implement this Policy and set a standard of behaviour by their own example.

Any complaint of sexual harassment shall be fully and properly investigated and, if substantiated, will be regarded as grounds for disciplinary action up to and including dismissal. An attempt will be made to resolve the complaint informally in the first instance but if this is not possible, a formal procedure will be invoked.

Confidentiality will be ensured, insofar as is possible, at all times during the investigation for all parties involved. The school authority is committed to providing an environment free from sexual harassment and ensuring that such behaviour by employees or students is not tolerated.

- a) Sexual harassment of one staff member (teaching or non-teaching) by another staff member (teaching or non-teaching) will not be tolerated and is contrary to school policy.
- b) Sexual harassment of one student by another student, or of one staff member (teaching or non-teaching) by a student will not be tolerated and is contrary to school policy.
- c) Sexual harassment of a student by a staff member (teaching or non-teaching) will not be tolerated. It is contrary to school policy and is a serious abuse of authority.

### **2.2 Employees Responsibilities**

Employees have a clear role to play in the creation of an environment at work in which sexual harassment is unacceptable. Employees can contribute to preventing sexual harassment through an awareness and sensitivity towards the issue and by ensuring that standards of conduct for themselves and for colleagues do not cause offence.

## **2.3 Sexual Harassment may result in Disciplinary Action**

- a) Complaints of sexual harassment will be taken seriously and if proven could constitute grounds for disciplinary action. Prompt action will be taken when incidents involving sexual harassment take place and come to the attention of management. Fair and equitable procedures will be used in dealing with such complaints both in relation to the complainant and the alleged harasser. These procedures are set out in Section 3 below.
- b) Malicious complaints by students or teachers will be treated as misconduct under disciplinary procedures.
- c) The school authority will endeavour to protect all students and employees from intimidation, victimisation or discrimination in the event of a complaint being filed or while they may be involved in the process of an investigation of sexual harassment in the school.

## **2.4 Assistance in the Event of Harassment**

- a) Every effort will be made to guide persons who are victims of sexual harassment into therapy/counselling to assist their recovery.
- b) Persons who sexually harass others will be advised to seek counselling to prevent further incidents of sexual harassment arising.

# **3. Making a Complaint of Sexual Harassment**

- 3.1 Any employee who feels he or she has been or is being sexually harassed should ask the perpetrator to stop. Where this form of action is unsuccessful the employee may report the matter to any of the following: the Principal, the Vice-Principal, a staff representative, a teacher or the Board of Management.

Attempts will be made to resolve the matter informally, if appropriate. Counselling and support services will be made available. If it is not possible to resolve the matter informally, a formal complaints procedure shall be applied incorporating the following steps:

- a) A written report should be made by the complainant or an authorised person to whom the complaint is made and signed by the complainant.
- b) The complaint will be investigated with minimum delay as confidentially as possible by two individuals, one of whom shall be the same sex as the complainant if so requested. Due respect shall be had for the rights of the complainant and the alleged perpetrator.
- c) Both parties may be accompanied/represented at all interviews/meetings held and these shall be recorded.

- d) Where a complaint is found to be substantiated, the extent and nature of the sexual harassment will determine the form of the disciplinary action to be taken. These actions may include a verbal warning, a written warning, suspension from duties with or without pay, suspension from full duties with or without pay or dismissal.
- e) Where the transfer of one of the parties involved is deemed to be appropriate, the person who has been sexually harassed shall not be transferred unless they so request.
- f) Where an employee is victimised as a result of invoking or participating in any aspect of the complaints procedure, including acting as a witness for another employee, such behaviour will also be subject to disciplinary action.

No record of any complaint will be registered on an employee's file unless the formal procedure outlined above has been invoked.

It is the opinion of the school that issues of sexual harassment are best dealt with within the school. However, no aspect of this Policy affects any employee's individual legal rights to take their complaint outside of the school.

### 3.2 Informal Procedures

Employees should be advised that, if possible, they should attempt to resolve the problem informally in the first instance. It may be possible and sufficient for the employee concerned to explain clearly to the person engaging in the unwanted conduct that the behaviour in question is not welcome, that it offends them or makes them uncomfortable, and that it interferes with their work. In circumstances where it is too difficult or embarrassing for an individual to do this on his/her own behalf, an alternative approach would be for an initial approach to be made by a sympathetic colleague. Ideally this should result in a cessation of this unacceptable behaviour. It is very important for the recipient of sexual harassment to keep notes, detailing times and dates of incidents of sexual harassment and request eyewitnesses, if any, to note them also.

If it is not appropriate to resolve the problem informally (because of the severity or continuation of the harassment, for example) it should be raised through the Formal Complaints Procedure outlined in 3.3 below.

In cases of sexual harassment of an employee by a student, the student should be advised that he/she has breached the School Code of Practice on Sexual Harassment and that the matter is being dealt with by the school as is normal for all breaches of discipline and may result in sanctions being imposed upon the student.

### 3.3 Formal Procedures

Staff members subjected to sexual harassment shall make a formal complaint to the Principal who will be responsible on behalf of management for investigating such complaints and recommending action. *Ultimate disciplinary action as at (d)*

***below is the responsibility of the Board of Management. Disciplinary action should take account of contractual arrangements applying in given situations.*** Prior to the commencement of the formal investigation the alleged harasser will be given a copy of the formal written complaint and advised that an investigation will ensue which may lead to disciplinary action. Depending on the severity of the alleged harassment the alleged harasser may be suspended with pay pending the investigation. Both the complainant and the alleged harasser will be advised of their right to be accompanied and/or represented by their Union Representative or a colleague.

Where any staff members do not find it appropriate to report to Principal as above, he/she may report to Vice-Principal/Chairperson, Board of Management. The list of personnel available for reporting should reflect gender balance.

Investigations of any complaint will be handled with sensitivity and with due respect to the rights of both the complainant and the alleged harasser. The normal grievance procedure or existing practice will be the mechanism for resolving such complaints. It is understood that all complaints will be investigated with the minimum of delay consistent with fairness to both parties.

- a) A written report should be made by the complainant or an authorised person to whom the complaint is made and signed by the complainant.
- b) The complaint will be investigated with minimum delay as confidentially as possible. Due respect shall be had for the rights of the complainant and the alleged perpetrator.
- c) Both parties may be accompanied/represented at all interviews/meetings held and these shall be recorded.
- d) Where a complaint is found to be substantiated, the extent and nature of the sexual harassment will determine the form of the disciplinary action to be taken. These actions may include a verbal warning, a written warning, suspension from some duties with or without pay, suspension from full duties with or without pay or dismissal.
- e) If the complaint is deemed valid, following a thorough and objective assessment of the evidence of both parties to the investigation process, prompt action will be taken under sanctions up to and including suspension and/or dismissal.
- f) It is the responsibility of the school authorities that complaints of sexual harassment are investigated and dealt with by the authorities and not the complainant.
- g) Where disciplinary action is taken following a complaint and subsequent investigation, the harasser retains the right of appeal under existing disciplinary procedures and the right of natural justice.

- h) Where an employee is victimised as a result of invoking or participating in any aspect of the complaints procedure, including acting as a witness for another employee, such behaviour will also be subject to disciplinary action.
- i) No record of any complaint will be registered on an employee's file unless the formal procedure outlined above has been invoked.

#### 3.4 Students

- a) Students subjected to sexual harassment shall report the conduct to any of the following (gender choice): Principal, Deputy Principal, Matron/Nurse, Guidance Counsellor, Chaplain, Year Head, Class Teacher who will report the complaint to the Principal/Deputy Principal for investigation.
- b) Where a complaint of sexual harassment is made by a student against a member of staff, the complaint will be dealt with as provided for in Section 3.3.
- c) Where a complaint of sexual harassment is made by a staff member against a student, the complaint will be handled under the code of behaviour for students of the school where appropriate.
- d) Where a complaint of sexual harassment is made by one student against another student, the complaint will be handled under the code of discipline for students of the school.

#### 3.5 Information

- a) The school undertakes to circulate the written Code of Practice on sexual harassment to all staff.
- b) The school authorities raise the issue of sexual harassment with students in the context of Relationships and Sexuality Education or other appropriate programmes.
- c) This Code of Practice should be incorporated into schools/colleges' discipline policies and brought to the attention of staff, parents and students.