

# Dignity at Work Policy

## (Bullying and Harassment)

Curve or Curve Theatre, Leicester are the trading names of Leicester Theatre Trust Limited (LTT) a registered charity, no: 230708

<b>Policy Owner</b>	HR Manager	
<b>Audience/ who does policy apply to</b>	Staff or Workers to include employees, trustees, actors, musicians, creatives, freelancers, consultants, agency workers and volunteers	
<b>Legislation and reference documents</b>	<u>Internal</u> <ul style="list-style-type: none"> <li>• Equality, Diversity and Inclusion Policy</li> <li>• Speak Up Policy</li> <li>• Grievance Policy (Employees only)</li> <li>• Disciplinary Policy (Employees only)</li> <li>• Whistleblowing policy (Employees only)</li> </ul>	<u>External</u> <ul style="list-style-type: none"> <li>• Equality Act 2010</li> <li>• Employment Rights Act 1996</li> <li>• ECHR guidance on sexual harassment</li> <li>• General Data Protection Regulation 2016</li> <li>• Data Protection Act 2018</li> </ul>
<b>Approved by and date</b>	Voices for Change -Equality, Diversity and Inclusion Group	
<b>Review period</b>	Annually	
<b>Date reviewed</b>	16 March 2023	
<b>Next Review Date</b>	March 2024	

### 1 Scope

This policy does not form part of an employee’s contract of employment with the Company and we may amend it at any time.

Any breach of this policy by an employee, trustee, actor, musician, creative, freelancer, consultant, agency worker or volunteers will be taken seriously and may result in disciplinary action in relation to employees and other action in relation to non-employees. In some instances, serious breaches of this policy may be considered to be an act of gross misconduct which could result in the immediate termination of employment, or, as is the case, the immediate termination of any consultancy or engagement.

## **2 Policy**

- 2.1** Curve is committed to providing a working environment free from bullying and harassment and ensuring all Staff and those who are engaged at Curve are treated, and treat others, with dignity and respect.
- 2.2** This policy covers bullying and harassment which occurs at work and out of the workplace, such as on business trips or at work-related events or social functions. It covers bullying and harassment by “Staff” (which may include employee, trustee, actor, musician, creative, freelancer, consultant, agency worker or volunteers) and also by third parties such as customers, suppliers or visitors to our premises.
- 2.3** Our separate ‘Speak Up’ Policy should give Staff the confidence to speak up on any concerns or observations they would like to raise without fear of repercussion. It also reinforces the need for staff to challenge inappropriate words or behaviours in relation to prejudice or discrimination, including when this is aimed at a ‘third’ party and therefore wouldn’t be covered under this Dignity at Work (Bullying & Harassment) Policy.
- 2.4** This policy covers all employees, officers, consultants, contractors, casual workers, actors, musicians, creatives, apprentices and agency workers.

### **3. Who is responsible for this policy?**

- 3.1** Our board of trustees (the board) and the Voices for Change EDI Group () has overall responsibility for the effective operation of this policy but has delegated day-to-day responsibility for overseeing its implementation to CEO/HR Manager/Senior Management Team (SMT)
- 3.2** All managers have a specific responsibility to operate within the boundaries of this policy, ensure that all staff understand the standards of behaviour expected of them and to take action when behaviour falls below its requirements.
- 3.3** Staff should disclose any instances of bullying and harassment of which they become aware to their line manager, member of SMT or HR department.
- 3.4** Questions about this policy and requests for training or information on dealing with harassment should be directed to the HR Manager.
- 3.5** This policy is reviewed annually by the EDI Group (Voices for change).
- 3.6** The HR Manager has responsibility for ensuring that any person who may be involved with investigations or administrative tasks carried out under this policy receive regular and appropriate training to assist them with these duties.
- 3.7** Staff are invited to comment on this policy and suggest ways in which it might be improved by contacting the HR Manager.

#### 4. What is Bullying and/or Harassment?

- 4.1 Bullying and Harassment both involve any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.
- 4.2 Unwanted means essentially the same as "unwelcome" or "uninvited". Unwanted means "unwanted by the worker" and should be considered from the worker's subjective point of view. It is not necessary for a worker to say that they object to conduct for it to be unwanted.
- 4.3 A single incident can amount to bullying or harassment. Conduct can amount to bullying or harassment even if that is not what was intended.
- 4.4 A person may be bullied or harassed even if they were not the intended "target". For example, a person may be harassed by racist jokes about a different ethnic group if the jokes create an offensive environment.
- 4.5 Legitimate, reasonable and constructive criticism of a worker's performance or behaviour, or reasonable instructions given to workers in the course of their employment, will not amount to bullying on their own.

#### 5. Harassment related to a protected characteristic

Unlawful harassment is harassment related to a relevant protected characteristic. A relevant protected characteristic includes age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. Harassment is unacceptable even if it does not fall within any of these categories.

Harassment may include, for example:

- (a) spoken words, comments, mocking, mimicking or belittling a person;
- (b) banter;
- (c) written words;
- (d) posts or contact on social media;
- (e) imagery including pornographic material and including by imagery sent by email, text message, video clips, WhatsApp, images sent by mobile phone or posted on the internet;
- (f) graffiti;
- (g) physical gestures;
- (h) facial expressions;
- (i) mimicry;
- (j) jokes or pranks or stereotypical remarks about a person;
- (k) acts affecting a person's surroundings;
- (l) aggression (m) physical behaviour towards a person or their property;
- (n) unwanted physical conduct or "horseplay", including touching, pinching, pushing and grabbing;
- (o) continued suggestions for social activity after it has been made clear that such suggestions are unwelcome;
- (c) outing or threatening to out someone as gay or lesbian; and/or
- (f) offensive e-mails, text messages or social media content.

Examples of this could include:

A worker has a son or daughter who is transgender and his colleagues make jokes about their transition.

A Sikh worker wears a turban to work. His manager wrongly assumes that he is Muslim and subjects him to Islamophobic abuse.

A worker with a hearing impairment is verbally abused because they wear a hearing aid.

A manager is to interview a worker who they line manage for promotion. The manager says that worker is the favourite for the job because they are the best-looking candidate.

An employee racially abuses a black worker in front of a white colleague. The black worker and the white worker may both be able to claim unlawful harassment.

## **5.1 Sexual harassment**

Sexual harassment occurs when a worker is subjected to unwanted conduct which is of a sexual nature. The conduct need not be sexually motivated, only sexual in nature.

Conduct 'of a sexual nature' includes a wide range of behaviour, such as:

- (a) sexual comments or jokes
- (b) displaying sexually graphic pictures, posters or photos
- (c) suggestive looks, staring or leering
- (d) propositions and sexual advances
- (e) making promises in return for sexual favours
- (f) sexual gestures
- (g) intrusive questions about a person's private or sex life or a person
- (h) discussing their own sex life
- (i) sexual posts or contact on social media
- (j) spreading sexual rumours about a person
- (k) sending sexually explicit emails or text messages, and
- (l) unwelcome touching, hugging, massaging or kissing.

Examples could include:

A worker alters a pornographic image by pasting an image of a colleague's face on to it and sends it to other colleagues, causing the person to be ridiculed.

A worker has a brief sexual encounter with a colleague and then states that they think it was a mistake and doesn't want the relationship to continue. The next day the supervisor grabs the worker's bottom, saying "come on, stop playing hard to get".

An individual can experience unwanted conduct from someone of the same or different sex.

## **5.2 Less favourable treatment for rejecting or submitting to unwanted conduct**

The third type of harassment occurs where:

- (a) a worker is subjected to unwanted conduct of a sexual nature, related to sex or related to gender reassignment;
- (b) the unwanted conduct has the purpose or effect of violating the workers' dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the worker; and
- (c) the worker is treated less favourably because they submitted to, or rejected the unwanted conduct.

#### Example

If a female worker has a brief sexual encounter with a colleague and then states that she thinks it was a mistake and doesn't want the relationship to continue. The next day the supervisor grabs the worker's bottom, saying "come on, stop playing hard to get". If the colleague then starts to make things more difficult for the worker at work, giving her more work to do or being critical of her work, then this would amount to less favourable treatment because she had rejected his conduct.

Similarly, if he refused her promotion because she rejected his advances, this would be unlawful.

### **5.3 Victimisation**

Victimisation occurs whenever a worker is subjected to a detriment because they have done a protected act – for example, because they have made a complaint of harassment, helped someone else to make a claim by giving evidence or information relating to that claim or made an allegation that someone has breached the discrimination legislation. Victimisation also means subjecting a worker to a detriment because it is believed that they have done or are going to do the protected act, even if they don't actually do it.

An act will not be a protected act where the worker gives false evidence or information or makes a false allegation in bad faith.

#### Example

A worker gives evidence to the employer which supports a colleague's claim of sexual orientation discrimination or harassment and, as a result, the worker is denied a promotion.

### **6. Consequences of Harassment**

- 6.1** Sexual harassment, harassment (including less favourable treatment for rejecting or submitting to unwanted conduct) and victimisation are unlawful and will not be tolerated.
- 6.2** If you are guilty of sexual harassment, harassment (including less favourable treatment for rejecting or submitting to unwanted conduct) and/or victimisation, this will be treated as a disciplinary matter and may constitute gross misconduct, justifying summary dismissal without notice or payment in lieu of notice.

This includes any sexual harassment, harassment (including less favourable treatment for rejecting or submitting to unwanted conduct) and/or victimisation that you commit:

- (a) In a work situation;
- (b) During any situation related to work, such as a social event with colleagues;

- (c) Against a colleague or other person connected to the employer outside of a work situation, including on social media; or
- (d) Against anyone outside of a work situation where the incident is relevant to your suitability to carry out your role.

**6.3** Aggravating factors such as abuse of power over a more junior colleague will be taken into account in deciding what disciplinary action to take and in most cases, will be treated as gross misconduct justifying summary dismissal without notice or payment in lieu of notice

## **7. What to do if you witness Bullying or Harassment**

**7.1** If you witness bullying or harassment, then you are encouraged to take steps to address it. This may include:

- Intervening where you feel that it is appropriate to do so
- Asking the person subjected to bullying or harassment if they would like a witness to report it or support them in reporting it
- Reporting the incident where the witness feels that there may be a continuing risk if you do not do so
- Co-operating in any investigation.

Witnesses will not be subjected to any detriment for providing information regarding an allegation of harassment and acts of unlawful victimisation will not be tolerated.

## **8. If you are being Bullied or Harassed: Informal steps**

**8.1** If you are being bullied or harassed, consider whether you feel able to raise the problem informally with the person responsible. You are not under any pressure to do so, but may feel that you are able. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable. If this is too difficult or embarrassing, you should speak to your line manager (or if your line manager is the one responsible for the harassment, their manager) or the Human Resources Department, who can provide confidential advice and assistance in resolving the issue formally or informally.

**8.2** If you are not certain whether an incident or series of incidents amounts to bullying or harassment, you should initially contact your line manager (or if your line manager is the one responsible for the harassment, their manager) or the Human Resources Department informally for confidential advice.

**8.3** If you raise the matter informally with your line manager (or if your line manager is the one responsible for the harassment, their manager) or the Human Resources Department, they will listen to you and work out how best to resolve the issue informally and in a way which you are most comfortable with, having considered all of the options. This may include:

- Providing you with advice on how to approach the issue with the alleged harasser
- Supporting you in raising the issue with the alleged bully or harasser by accompanying you in that discussion or helping you to set out your thoughts in writing
- Raise the matter informally with the bully or harasser on your behalf
- Arrange mediation between you and the alleged bully or harasser
- Help to obtain advice on how best to resolve the issue and/or assistance in doing so from other sources
- Help to obtain counselling or support for you

**8.4** If informal steps are not appropriate due to the nature of the incident or severity or in any other case where it is inappropriate, or have been unsuccessful, you should follow the formal procedure set out below and/or refer to our Grievance Procedure.

## **9. Raising a formal complaint**

**9.1** If you wish to make a formal complaint about bullying or harassment, you should submit it in writing to your line manager/company stage manager, senior manager or HR department, whose role is to achieve a solution wherever possible and to respect the confidentiality of all concerned. If the matter concerns one of the above, you should refer it to another senior manager or Trustee.

**9.2** Your written complaint should set out full details of the conduct in question, including the name of the bully or harasser, the nature of the bullying or harassment, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.

**9.3** As a general principle, the decision whether to progress a complaint is up to you. However, we have a duty to protect all staff and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so. We may also need to take steps to ensure that the matter is resolved in any event, for example:

- Keeping a record of the complaint and your request to keep it confidential
- Encouraging you to address the issue informally
- Providing you with support and guidance
- Keeping the situation under review
- Where the situation doesn't improve, taking steps to address the issue

If we decide that we must take formal action, then we will explain that to you and ensure that we put appropriate safeguards in place to prevent further harassment or victimisation, as well as support for you.

## **10. Formal investigations**

**10.1** We will investigate complaints in a timely and confidential manner. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis. Individuals not involved in the complaint or the investigation should not be told about it (save where you may need to take legal advice, as required by law or where there is a requirement to report the matter to a regulator). The investigation will be conducted by someone with appropriate experience and no prior involvement in the complaint, where possible. The investigation should be thorough, impartial and objective, and carried out with sensitivity and due respect for the rights of all parties concerned. We reserve the right to engage an independent third party to assist at any stage of this procedure.

**10.2** We will arrange a meeting with you, usually within one week of receiving your complaint, so that you can give your account of events. You have the right to be accompanied by a colleague or a trade union representative of your choice, who must respect the confidentiality of the investigation. You will be given a provisional timetable for the investigation. The investigator will arrange further meetings with you as appropriate throughout the investigation.

- 10.3** Where your complaint is about an employee, we may consider suspending them on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require. The investigator will also meet with the alleged harasser to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond.
- 10.4** Where your complaint is about someone other than an employee, such as a customer, supplier or visitor, we will consider what action may be appropriate to protect you and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the business and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.
- 10.5** We will also seriously consider any request that you make for changes to your own working arrangements during the investigation. For example, you may ask for changes to your duties or working hours so as to avoid or minimise contact with the alleged harasser.
- 10.6** It may be necessary to interview witnesses to any of the incidents mentioned in your complaint. If so, the importance of confidentiality will be emphasised to them.
- 10.7** At the end of the investigation, the investigator will submit a report to a Senior Manager or Trustee (depending on the circumstances) nominated to consider the complaint. They will arrange a meeting with you, usually within a week of receiving the report, in order to discuss the outcome and what action, if any, should be taken. You have the right to bring a colleague or a trade union representative to the meeting. A copy of the report and the Senior Managers' or Trustees' findings will be given to you and to the alleged harasser.

## **11. ACTION FOLLOWING THE INVESTIGATION**

- 11.1** If the Senior Manager or Trustee considers that bullying or harassment has occurred, prompt action will be taken to address it.
- 11.2** Where the harasser is an employee the matter will be dealt with as a case of possible misconduct or gross misconduct under our Disciplinary Procedure. If the bully or harasser is a third party such as a customer or other visitor, we will consider what action would be appropriate to deal with the problem. Whether or not your complaint is upheld, we will consider how best to manage any ongoing working relationship between you and the person concerned.
- 11.3** Whether or not your complaint is upheld, we will consider how best to manage the ongoing working relationship between you and the person concerned. It may be appropriate to arrange some form of mediation and/or counselling, or to change the duties, working location or reporting lines of one or both parties.
- 11.4** Any staff member who deliberately provides false information or otherwise acts in bad faith as part of an investigation may be subject to action under our Disciplinary Procedure. You will not be subjected to disciplinary action or to any other detriment simply because your complaint is not upheld. You will only face disciplinary action if it is found both that your allegation was false and/or made in bad faith.
- 11.5** It will be necessary for us to communicate the outcome of the complaint of harassment to the complainant. In this event, we may need to disclose the outcome of disciplinary action taken



against the alleged harasser in order for that individual to be confident that appropriate action has been taken. We will need to balance our need to disclose the outcome to the complainant against our obligations under the General Data Protection Regulation.

## **12. APPEALS**

- 12.1** If you are not satisfied with the outcome you may appeal in writing to HR Manager, stating your full grounds of appeal, within 5 working days of the date on which the decision was sent or given to you.
- 12.2** We will hold an appeal meeting, normally within one week of receiving your written appeal. This will be dealt with impartially by, where possible a more senior manager or Trustee who has not previously been involved in the case (although they may ask anyone previously involved to be present). You may bring a colleague or trade union representative to the meeting.
- 12.3** We will confirm our final decision in writing, usually within one week of the appeal hearing. This is the end of the procedure and there is no further appeal.

## **13. PROTECTION AND SUPPORT FOR THOSE INVOLVED**

- 13.1** Staff who make complaints or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised someone in this way will be subject to appropriate action.
- 13.2** If you believe you have suffered any such treatment you should inform your line manager or the HR team. If the matter is not remedied you should raise it formally using our Complaints process or Grievance Procedure or this procedure if appropriate.
- 13.3** We offer our permanent employees access to confidential counselling through our Health Cash plan, through Medicash. The details are available in confidence from a member of the HR team. Additional support can be found below in 13.4.
- 13.4** If you require additional/external support, you may wish to consider approaching any one of the following:
- Theatre Helpline on 0800 915 4617 or via email at [www.theatrehelpline.org](http://www.theatrehelpline.org);
  - ACAS on 0300 123 1100
  - National bullying helpline on 0845 2255787 or via email at [admin@nationalbullyinghelpline.co.uk](mailto:admin@nationalbullyinghelpline.co.uk)
  - The Equality Advisory and Support Service

Address: Freepost EASS Helpline FPN6521  
Facebook: [www.facebook.com/EASSHelpline/](http://www.facebook.com/EASSHelpline/)  
Twitter: @EASShelpline  
Phone: 0808 800 0082  
Textphone: 0808 800 0084  
<http://www.equalityadvisoryservice.com/>

- Rights of Women in England and Wales

52-54 Featherstone Street, London EC1Y 8RT

Tel: 020 7490 0152

<https://rightsofwomen.org.uk/contact-us/>

#### **14. CONFIDENTIALITY AND RECORD-KEEPING**

**14.1** Confidentiality is an important part of the procedures provided under this policy. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a “need to know” basis, save as required by law, to enable you to take appropriate legal advice or where there is a requirement to report the matter to a regulator). Breach of confidentiality may give rise to action being taken stated in Scope of the policy above.

**14.2** Information about a complaint by or about an employee may be placed on the employee’s personnel file, along with a record of the outcome and of any notes or other documents compiled during the process.