



MAPLES
GROUP

NEW CODE OF PRACTICE
ON THE PREVENTION AND
RESOLUTION OF BULLYING IN
THE WORKPLACE IN IRELAND

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BACKGROUND

With effect from 1 January 2021, a new code of practice replaces two statutory codes in relation to the prevention and resolution of bullying in the workplace.

- The Industrial Relations Act 1990 (Code of Practice for Employers and Employees on the Prevention and Resolution of Bullying at Work) Order 2020 (the “2020 Code”) was jointly developed by the Health and Safety Authority (“HSA”) and the Workplace Relations Commission (“WRC”).
- The 2020 Code replaces both the 2002 and 2007 codes of practice and provides consolidated guidance to employers about the processes and procedures to be followed when dealing with a complaint of bullying.

SIGNIFICANT CHANGES

The 2020 Code:

- Expressly acknowledges that ordinary performance management, constructive feedback or expressing differences of opinion strongly will not be considered to be forms of bullying. The 2020 Code maintains the existing definition of bullying in the workplace which is:

“Workplace bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could be reasonably 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.”

- Provides detailed guidance on how to implement an anti-bullying policy in the workplace.
- Expressly acknowledges the importance of engaging with employees or their representatives including the Safety Representative or Safety Committee when developing and introducing a robust anti-bullying policy.
- Introduces a new secondary informal process which may be used to address concerns. This process involves the employer nominating a separate person who has had appropriate training and experience to deal with the complaint on an informal basis.

Guidance is also provided on the management of malicious complaints. Malicious complaints are defined as “an allegation being made without foundation with malicious intent where a person knowingly or without regard to whether it is true or not, accuses another person of allegedly bullying them”.

The 2020 Code also introduces the concept of bullying by cyber or digital means. This is of particular importance given the high number of employees working remotely at present.

KEY TAKEAWAYS FOR EMPLOYERS

In light of these developments, employers should review their Prevention of Bullying at Work/Dignity at Work policy in the Employee Handbook to ensure that the necessary changes are incorporated to reflect the 2020 Code.

Employers should ensure that employees are trained on acceptable behaviour and appropriate conduct. Management in particular should be provided with appropriate training on managing complaints. Third parties with whom employees regularly come into contact such as business contacts and contractors should be made aware that they are bound by the employer's acceptable behaviour and conduct standards as articulated in the policy.

Employers should ensure that remote working employees are aware that the Dignity at Work policy continues to apply to them while they work on a remote basis.

Please contact your usual Maples Group Employment Team contact for further advice and assistance on implementing the new code of practice on the prevention and resolution of bullying in the workplace in Ireland.

KEY CONTACT

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