

Dignity & Respect in the Workplace Workshop

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Background

- The Arts Council as the development agency for the arts in Ireland is committed to supporting organisations in developing and maintaining a culture of dignity and respect in the workplace.
- Individuals and organisations applying for funding to the Arts Council must confirm that they comply with Company governance requirements, including having appropriate Dignity and Respect at Work policies and procedures in place.
- We have engaged the services of Graphite HRM, who specialise in HR and employment law advice and services, to support us in the implementation of this initiative.

Background

- Today is one of a series of information sessions for arts organisation representatives in regional venues across the country on the topic of Dignity and Respect at Work.
- We hope that you will go back to your organisations and review/put in place policies and procedures to promote Dignity and Respect and the prevention of bullying and harassment.
- Delighted to introduce – Louise McGonagle, a Senior HR Consultant from Graphite HRM.

Introduction

Workshop Aims

- An overview of Employment Equality and Health & Safety legislation as it relates to Dignity and Respect in the Workplace
- An understanding of the associated behaviours and resolution process for management
- Code of Practice, Policy and the Responsibilities of Management & Staff

Introduction

Workshop Overview

Session 1	What is Harassment & Bullying?
Session 2	The Resolution Process
Session 3	Practical Considerations
Session 4	Responding to a Complaint

Questions & Answers

Introduction

Appendix 1

Review and consider statements - True or False

You have 5 minutes

Dignity & Respect at Work

Session 1

What is Harassment & Bullying?

The objectives in this session are:

- To understand the origin of the definitions of Sexual Harassment, Harassment and Bullying in the Irish workplace.
- To understand the differences between the different behaviours.
- To understand the concept of vicarious liability of employers.

Harassment / Bullying?

Legislation

- Employment Equality Acts, 1998 and 2015
- Safety, Health, and Welfare at Work Act, 2005

Code of Practice

- Equality Authority
- Sexual Harassment and Harassment at Work 2012

Health and Safety Authority

- The Prevention and Resolution of Bullying at Work 2007

Labour Relations Commission

- Detailing Procedures for Addressing Bullying in the Workplace 2002

Harassment / Bullying?

Employment Equality Acts, 1998 and 2015

- Provides protection from discrimination in employment.
 - Covers treatment by employer, fellow employees, clients, customers and other business contacts such as contractors, suppliers, service providers and volunteers.
- Protects people from employment related sexual harassment and harassment.
 - Distinguishes between sexual harassment (on the gender ground) and harassment that is based on 9 separate grounds

Harassment / Bullying?

Activity 1

In Groups of 3 – please list the **Nine Grounds of Discrimination** and an example of the type of discrimination an individual may be subjected to.

You have 5 minutes

Harassment / Bullying?

Discrimination prohibited on 9 grounds:

- Gender - man or woman (includes transgender)
- Civil status - single, married, separated, civil partnership, divorced or widowed
- Family status - parent, *in loco parentis*
- Sexual orientation - heterosexual, bisexual or homosexual
- Religious belief - or lack of
- Age (16+)
- Disability - broadly defined
- Race - race, colour, nationality or ethnic or national origins
- Membership of the Traveller community

Harassment / Bullying?

Harassment?

- Based on any of the nine grounds
- *Any form of unwanted conduct related to any of the discriminatory grounds which has the purpose or effect of violating a persons dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the individual.*
- A single incident may constitute harassment

Harassment / Bullying?

Harassment can be any act or conduct, including:

- Verbal: spoken words, shouting, excessive criticism, jokes, comments, songs.
- Written: notices, letters, faxes, text messages, emails.
- Physical: shoving, jostling or any form of assault
- Intimidatory Harassment i.e. gestures, posturing or threatening poses.
- Visual displays such as posters, emblems, badges, screen-savers.
- Isolation or exclusion from social activities.
- Pressure to behave in an inappropriate manner.

Harassment / Bullying?

Sexual Harassment?

- Only on the grounds of gender
- *Any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that has the purpose or effect of violating a persons dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the individual.*
- A single incident may constitute sexual harassment
- Same sex sexual harassment covered

Harassment / Bullying?

Examples of Sexual Harassment:

- **Physical conduct** - unnecessary touching, patting or pinching or brushing against the body, assault or coercive sexual intercourse.
- **Verbal conduct** - sexual advances, propositions or pressure for sexual activity, offensive flirtations, suggestive remarks, innuendo's or lewd comments.

Harassment / Bullying?

Examples of Sexual Harassment:

- **Non-verbal conduct** - display of pornographic or sexually suggestive pictures, objects, written materials, emails, text-messages or faxes, leering whistling or gestures.
- **Sex-based conduct** - conduct that denigrates, ridicules or is intimidatory or physically abusive of the person because of his or her sex

Harassment / Bullying?

Sexual & Social Relationships at Work

- The Act does not prohibit all relations of a sexual/social nature.
- It is up to the person to decide;
 - a) What behaviour is unwelcome, irrespective of attitude of others to the matter and
 - b) from whom such behaviour is welcome or unwelcome, irrespective of attitudes of others to the matter.
- The **unwanted** element distinguishes sexual harassment and harassment from friendly behaviour which is welcome and mutual.

Harassment / Bullying?

Sexual Harassment and Harassment

- The intention of the perpetrator of the sexual harassment or harassment is irrelevant.
- The fact that the perpetrator has no intention of sexually harassing or harassing the person is no defence.
- The effect of the behaviour on the person is what is important.
- The fact that an individual has previously agreed to the behaviour does not stop him/her from deciding that it has now become unwelcome.

Harassment / Bullying?

Harassment & Sexual Harassment

- Vicarious liability of employers;
 - Employers are liable for the discriminatory actions of their employees.
- In defence:
 - Employers must prove they took steps to prevent the person
 - from doing that act.
 - from doing acts of that description.

Harassment / Bullying?

Bullying ?

- Code of Practice (Health & Safety Authority)
 - From 1st May 2007
 - Outlines common behaviours associated with bullying at work
 - Identifies situations where bullying commonly occurs at work
 - Describes how to prepare a Bullying Prevention Policy
 - Sets out procedures for resolving bullying complaints at work

Harassment / Bullying?

Safety, Health and Welfare at Work Act, 2005

- Section 8 (2) (b) of the 2005 Act in relation to employers
 - ‘managing and conducting work activities in such a way as to prevent, so far as is reasonably practicable, any improper conduct or behaviour likely to put the safety, health and welfare at work of his or her employees at risk’.

- Section 13 (1) (e) of the 2005 Act in relation to employees
 - ‘not engage in improper conduct or behaviour that is likely to endanger his or her own safety, health and welfare at work or that of any other person’.

Harassment / Bullying?

The Code of Practice defines Bullying 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, which could reasonably be regarded as undermining the individual’s right to dignity at work’

- An isolated incident of the behaviour in this definition may be an affront to dignity;
 - But a once-off incident, is not considered to be bullying

Harassment / Bullying?

A pattern of the following behaviours are examples of types of bullying:

- Aggression
- Undermining behaviour
- Excessive monitoring of work
- Humiliation
- Withholding work-related information
- Repeatedly manipulating a person's job content and targets
- Blame for things beyond the person's control
- Exclusion with negative consequences
- Verbal abuse/insults
- Physical abuse
- Being treated less favourably than colleagues
- Intrusion – pestering or stalking
- Menacing behaviour
- Intimidation

Harassment / Bullying?

How is Harassment different from Bullying?

- Harassment is closely related to bullying.
- Whilst it is illegal and should not be tolerated in the workplace, it does not fit the definition.
- Consider that harassment is governed by Equality legislation and is predicated on the person being a member of one of the nine categories specified within the anti-harassment legislation.

Harassment / Bullying?

How is Harassment different from Bullying?

- Bullying is legally distinct from harassment as bullying behaviour is not predicated on membership of any distinct group.

Harassment & Bullying

Potential effects on the victim

- Decrease in job performance and job satisfaction
- Absenteeism
- Anxiety, tension, irritation, depression
- Increased alcohol, cigarettes and drug use
- Insomnia
- Problems with weight and diet
- Illness such as migraine
- Difficulty with family and personal relationships

Harassment & Bullying

Potential effects on the Organisation

- Climate of fear and resentment
- Poor morale
- Lack of trust
- Absenteeism
- Higher turnover
- Reduced productivity
- Reduced efficiency
- Divided teams and breakdown of internal relationships within the organisation
- Bad publicity

Harassment & Bullying

Duties of employers

- Employers should adopt, implement and monitor a comprehensive, effective and accessible policy
- Must communicate adequately policy and procedures to all staff and contractors/freelance artists
- Must provide training for employees, contractors/freelance artists and managers.
- Must respond and deal with complaints that are made in line with provisions set out under Code of Practice/own policy

Harassment & Bullying

Responsibilities of Employees and those engaged by employers

- Should not engage in improper conduct or behaviour that is likely to endanger his or her own safety, health and welfare at work or that of any other person.
- Should consider how they treat others, and how their behaviour can impact on others.
- Are obliged to cooperate with company policies and procedures

What Bullying is not...

- An isolated incident of inappropriate behaviour may be an affront to dignity at work but, as a once-off incident, is not considered to be bullying.
- Fair and constructive criticism of a person's performance, conduct or attendance.
- Reasonable and essential discipline arising from the good management of the performance of a person at work.
- Actions taken which can be justified as regards the safety, health and welfare of people at work.
- Legitimate management responses to crisis situations which require immediate action.
- Complaints relating to instructions issued by a supervisor/manager, assignment of duties, terms and conditions of employment or other matters which are appropriate for referral under the normal grievance procedure.

Harassment & Bullying

Activity 2

Appendix 2

In your groups –

Read the case studies and discuss whether you think it could be a possible case of a) bullying
b) harassment c) sexual harassment or d) combination

Dignity and Respect at Work

Session 2

The Resolution Process

The Resolution Process

The objectives with this session are:

- To understand the resolution processes as prescribed by the Codes of Practice/own policy.
- To know what options and recommendations the manager can make in relation to a person who has made a complaint of bullying, harassment or sexual harassment.
- To understand the difference between an informal and a formal resolution process.
- To understand the implications of a formal investigation

The Resolution Process

- The purpose of D&R policy is to:
- Outline unacceptable behaviours
- Outline roles and responsibilities
- Provide a procedure for dealing with complaints

The Resolution Process

The Complaints Procedure

In relation to Harassment, Sexual Harassment or Bullying the code of practice/own policy prescribes the following approaches:

- Informal Resolution
- Mediation
- Formal Investigation

The Resolution Process

Informal

- Aims to resolve issue speedily, effectively, with minimum embarrassment and without risking a breach in confidentiality
- First step is to approach the person responsible for the behaviour

The Resolution Process

Informal

Approach to person responsible for behaviour must be low-key and non-confrontational

- Describing the BEHAVIOUR without a label e.g. Bullying
- Explaining what IMPACT the behaviour is having
- Asking for the behaviour to CHANGE / STOP
- Informing them of the Dignity at Work Policy

The Resolution Process

Informal

Where the person does not wish to approach the person directly, they may ask for assistance from:

- Their Manager or the person who engaged them on a project
- Another Manager or
- Next level of Management (where the complaint is against their own manager)
- Owner/ Director
- Trade Union Representative

The Resolution Process

Informal

When an employee or contractor/freelance artist complains to a manager, the manager will:

- Treat the complaint seriously and with sensitivity
- Assist the person in understanding the nature of the behaviour by asking questions
- Ensure they refrain from unnecessarily involving and/or discussing with others
- May act as facilitator with the parties
- Although the preferred method of resolution, the manager will ensure they know that choosing not to use the informal procedure will not reflect negatively on them

The Resolution Process

Informal

When an employee, or contractor/freelance artist complains to a manager, the manager:

- May speak to the perpetrator directly in a low key manner without using the label bullying
- May request investigation by a more senior Manager
- Will ensure the behaviour does not continue or ensures victimisation has not occurred
- Will keep notes/records of meeting

The Resolution Process

Informal - Mediation

- Possible option where internal facilitation is not successful or appropriate
- Both parties may be offered the option of mediation
- Independent mediator appointed by the organisation
- Requires voluntary participation and co-operation
- Does not deny right to investigation later
- If unsuccessful may result in investigation
- Information that arises is confidential, and cannot be used in investigation
- Conducted in private

The Resolution Process

Informal - Mediation

- Voluntary participation and co-operation of both parties
- Mediation will meet with both parties on a 1-1 basis first
- Following this the mediation session will commence
- Aim is to get both parties to come to a resolution themselves by reaching a common understanding and agreement on acceptable future behaviour
- The mediation process is strictly confidential

The Resolution Process

Moving to formal

- Where an informal approach is not successful, the employee, contractor/freelance artist can move to the formal route
- Employee, or Freelance Artist can also decide to skip informal process (their choice)
- The management/Boad of the company will be informed when a formal complaint is made

The Resolution Process

Move to a Formal Investigation where:

- Complainant wishes for it to be treated formally
- The alleged behaviour is too serious to be treated under the informal procedure
- Informal attempts at resolution have been unsatisfactory
- The behaviour continues after the informal procedure has been followed

The Resolution Process

Formal Complaint

The complaint should be made to his/her line Manager, detailing:

- The parties involved
- Nature of the harassment/bullying
- Details of the actual incident(s)
- How the incidents made the person feel
- When the incident(s) occurred
- Name of any witness(s) to the incident
- Any action taken already by the complainant to stop the behaviour
- Possible solutions to the problem

The Resolution Process

Formal Complaint

- An investigation panel will be established (Company representative)
- The alleged perpetrator will be notified in writing and given an opportunity to respond, informed of his/her right to representation
- The alleged perpetrator and alleged victim can both be suspended with pay to facilitate investigation.

The Resolution Process

Formal Complaint

- An investigation will be carried out by investigators who will be acceptable to both parties and not connected with the complaint.
- The investigation will be conducted in accordance with the Dignity at Work Policy
- The investigator(s) will determine whether the complaint is upheld and, where appropriate, make recommendations (excluding disciplinary action)

The Resolution Process

Formal Complaint

- Investigation will be thorough and objective and conducted without undue delay
- Meetings will be held with all relevant parties
- Following investigation both parties will be informed of the preliminary outcome
- Parties may provide additional or challenge any aspect of the evidence – write to comment
- Record kept of all meetings and conversations

The Resolution Process

Formal Complaint

- On completion of the investigation, the investigator(s) will submit a written report to senior management who will ensure that the terms of reference have been complied with.
- Both parties will be submitted with the report to submit final comments

The Resolution Process

Formal Complaint

- If the claim is substantiated, the Company will move to the Disciplinary Policy, Counselling and/ Mediation or take action in relation to a contractors contract if they are the perpetrator
- Victimisation or retaliation against a complainant, witness or any other party will constitute a serious disciplinary offence
- If the claim is found to be malicious – the Disciplinary procedure will be invoked
- Where a complaint is not upheld, no action will be made against the complainant provided that the complaint was made in good faith

The Resolution Process

Formal Complaint – Appeal

- If either party is dissatisfied with the outcome of the formal complaints procedure, they may lodge an appeal to a appropriate company representative within a period laid out in the Dignity and Respect Policy.
- The reason for the appeal should be outlined in writing citing the shortcomings of the investigation and the desired outcome
- The appeal will focus only on the aspect of the case cited by the appellant as being the subject of the appeal
- The final report of the investigation itself will not be subject to amendment
- The decision of the appeal will be final

The Resolution Process

At all times, the Policy enshrines the Rules of Natural Justice

- The Person has the right to:
 - Have grievances fairly examined and processed
 - Understand the details of any allegations or complaints put to them
 - Be given the opportunity to respond fully to any such allegations or complaints

The Resolution Process

Employer must not react adversely to an employee or Contractor/Freelance Artist where he/she:

- Makes a complaint to the employer
- Represented or otherwise supported a complainant
- Acted as a witness in any proceedings
- Pursues a legal claim
- Indicates an intention to do the above

No difference of treatment should be experienced by a victim who has submitted or rejected harassment or sexual harassment

Dignity & Respect at Work

Session 3

Practical Considerations

Practical Considerations

During an Investigation

- The parties involved may be suspended with pay pending the completion of the investigation
- The other team members may be asked to provide witness statements
- They are obliged to cooperate with the company's policy
- Be respectful towards all, and do not engage in gossip

Practical Considerations

During an Investigation

- Maintain confidentiality in relation to sensitive information
- Upholding both parties' rights
- Address gossip

Practical Considerations

Follow-Up Actions from an Investigation

- Management will inform all parties:
- Management should
 - Assess the need for counselling
 - If victimisation was proven ensure no further victimisation of complainant
- Managers are responsible for monitoring that agreed changes in behaviour happen in the workplace (if appropriate)
- Check that a different form of harassment / bullying is not taking place instead (e.g. isolation)

Dignity & Respect at Work

Session 4

Responding / Making a Complaint

Responding/Making a Complaint

Group Exercise:

Outline what you believe are the Employers and Employees ,
Contractor/Freelance Artist Responsibilities are in relation to a
complaint made under

The Dignity and Respect at Work Policy

Responding/Making a Complaint

Responsibilities of All Employees, Contractors/Freelance Artists

- Provide good example by treating all in the workplace with courtesy and respect
- Responsible for adhering to the policy at work related events
- Promote awareness of the Dignity at Work policy and complaints procedures
- Be vigilant for signs of unwelcome behaviours and take action before a problem escalates
- Report behaviour to their manager, the company owner or any other person as appropriate

Responding/Making a Complaint

Responsibilities of All Employers

- Respond sensitively to a person who makes a complaint of harassment
- Explain the procedures to be followed if a complaint is made, where appropriate
- Ensure that an employee, contractor/freelance artist making a complaint is not victimised for doing so

Responding to a complaint

Methodology - For Managing a Complaint

- Begin initial contact and establish a working relationship
- Find out what the persons needs are and state the employer's requirements
- Collecting the data – find out about the issues
- Diagnosing the problem – by making sense of the data

Responding to a complaint

Methodology - For Managing a Complaint

- Generating options – make decisions as part of a consultation process with the person and decide the way forward
- Implement the plans and take action
- Disengaging – arranging any necessary follow-up action

Responding to a complaint

Running the Meeting

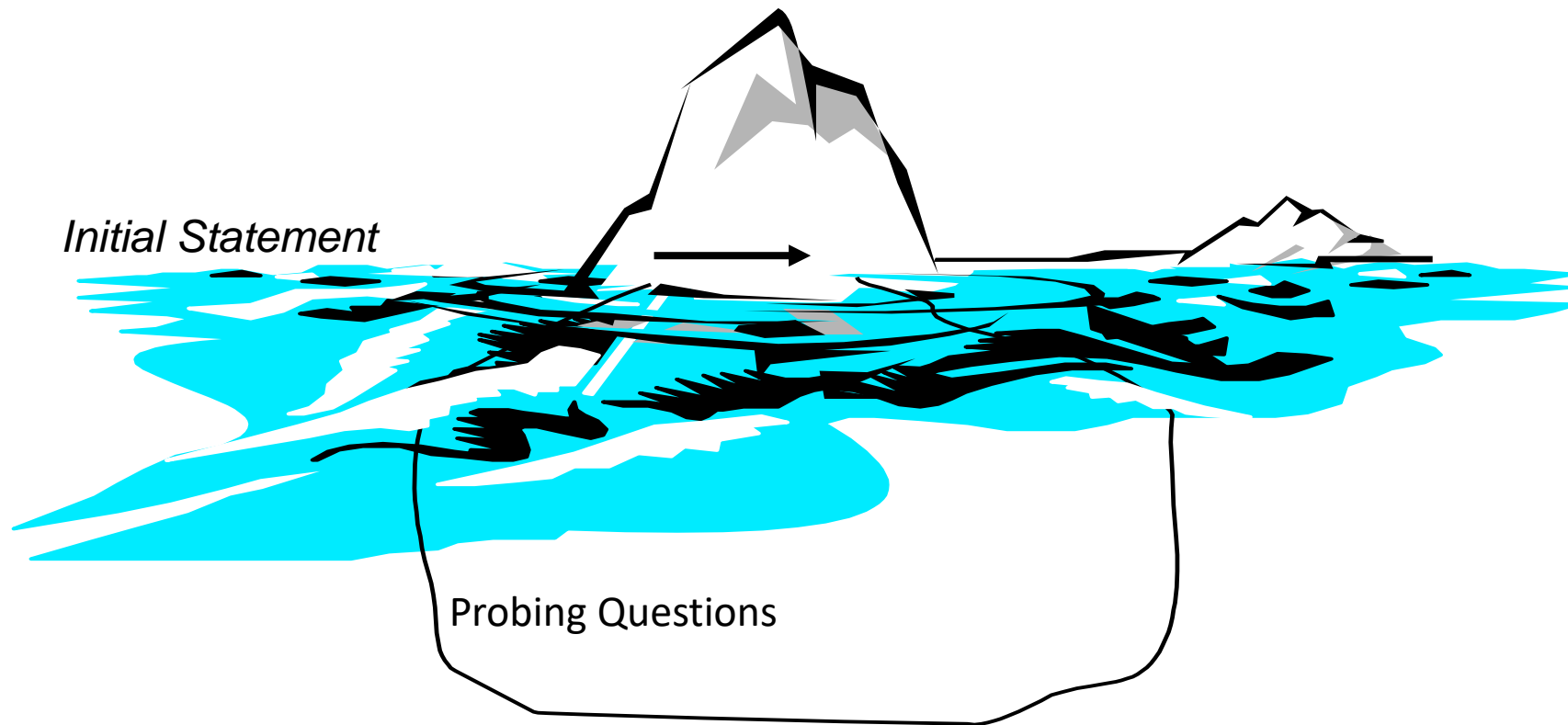
- Resist early judgement or involvement
- The conversation may become emotional
- You:
 - Remain professional
 - Don't get embroiled
 - Are comfortable with your authority
 - Adjourn the meeting if necessary

Responding to a complaint

When receiving a complaint you rely on soft interpersonal skills:

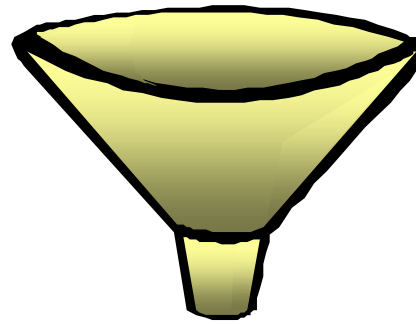
- Active Listening
- Questioning
- Probing
- Summarising
- Note Taking
- Showing Empathy
- Unconditional respect,
 - Respecting someone for being a human being and not making judgements based on what they have said.

Responding to a complaint



Responding to a complaint

The Funnel



What?

How?

Why?

When?

Responding to a complaint

Use Questioning

- Open Probe
- Closed Probe
- Objective/non-judgemental

Avoid

- Hypothetical or situational
- Leading
- Double or multiple

Responding to a complaint

Questioning - Probes

- Follow up on OPEN questions
- Explore person's answers in greater depth
- Should be prepared to delve and challenge responses

Open probe:

“Tell me about what happened that day”

Closed probe:

“What specifically did you do then?”

“What happened after the incident?”

Responding to a complaint

Questioning-Types to Avoid

- Hypothetical or Situational questions:
 - “What would you do...?” questions
 - Only assess theoretical views and do not reflect the facts

“What would you do if someone did that to you?”

“How do you think he felt then?”

Responding to a complaint

Questioning - Types to Avoid

- Leading questions:
 - Telegraph the answer
 - Prevent unbiased responses

“Would you agree that ?”

“You wouldn’t do that...would you?”

“You must admit....”

Responding to a complaint

Questioning - Types to Avoid

- Double or multiple questions:
 - Confuse the person
 - Lose valuable information

“Can you describe exactly what happened, what was it like, who was there & how did you deal with them?”

Responding to a complaint

Active Listening is listening to:

- Verbal messages
- Non-verbal messages

Responding to a complaint

Include:

Verbal

- *questioning*
- summarising & clarifying
- use of voice

Non-verbal

active listening
body language
environment

Responding/Making a Complaint

Group Exercise

In your Groups discuss why you believe that Employees,
Contractor/Freelance Artists
are reluctant to make a complaint

Responding/Making a Complaint

Why people may be reluctant to take action

- Uncertain of company policy and procedures
- Embarrassment or shame
- Fear of reprisal – i.e. will never work again
- Reluctance to focus attention on situation
- Fear complaint will not be believed or will be trivialised

Responding/Making a Complaint

Why people may be reluctant to take action

- Fear that if alleged harasser is a member of management his/her side will be taken
- Perception that a compliant will be seen as a sign of weakness or inability to cope
- Difficult to prove without witnesses
- Reluctance of witnesses to get involved

Conclusion

- We hope that you will go back to your organisations and review/put in place policies and procedures to promote Dignity and Respect and the prevention of bullying and harassment.
- Graphite will also develop resource materials for arts organisations' use (including a template policy) which will be available on the Arts Council's website at the end of the month.
- We want to ensure that we have captured any learning from the sessions to incorporate into this information. It is important to note, however, that the template is offered for guidance only.
- Each organisation should develop/review its policy and procedure in the area of Dignity and Respect at Work, particularly taking into consideration its own organisation structure and, if necessary, in consultation with a legal adviser.

Questions & Answers

