

# ANTI-BULLYING POLICY

Final Version, Ref No: OCDC7

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## **1. Purpose of Policy**

The purpose of this policy is to clearly outline the policies and principles that must be adhered to when dealing with allegations and incidents of bullying in relation to young people on the Oberstown Campus.

## **2. Policy statement**

Bullying in any form is not to be accepted or tolerated.

All staff in Oberstown should work to ensure that the culture and climate of the Campus is welcoming of difference and diversity and is based on inclusivity and promotes respectful relationships.

Staff in Oberstown must take all steps that are reasonably practicable to prevent the bullying of young people on grounds of gender including transgender, civil status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community.<sup>1</sup>

Furthermore, all staff must be aware of the importance of recognising and identifying bullying behaviour and should ensure consistent recording, investigation and follow up of bullying behaviour.

## **3. Scope of Policy**

This policy applies to everyone working in Oberstown, including external stakeholders or partners. This policy must be read in conjunction with Oberstown's anti-bullying procedures, safeguarding procedures, and Children First: National Guidelines for the Protection and Welfare of Children.<sup>2</sup>

## **4. Legal framework**

It is the principal aim of Oberstown Children Detention Campus under s 158 of the *Children Act, 2001* to provide appropriate educational and training programmes for children referred to the Campus by a court and to promote their reintegration into society as persons who are capable of making a positive and productive contribution to society.<sup>3</sup> This must be secured by having regard to young people's health, safety, welfare, interests; providing them with proper care, guidance and supervision; preserving and developing young people's relationships with their families; exercising proper moral and disciplinary influences on young people and recognising their personal, cultural and linguistic identity.

According to s 180 of the Act, young people in Oberstown are in the lawful custody of the Director who is 'to do what is reasonable...in all the circumstances .... for the purpose of safeguarding or promoting the child's... health, development or welfare'.<sup>4</sup>

These obligations are fulfilled, among other means, through the implementation by staff of Oberstown's policies and procedures.

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<sup>1</sup> *Equal Status Acts 2000 to 2004.*

<sup>2</sup> DYCA, Children First: National Guidelines for the Protection and Welfare of Children, 2011.

<sup>3</sup> See 158 of the *Children Act, 2001.*

<sup>4</sup> s 180 of the *Children Act, 2001.*

Schools, and organisations that care for, or work with young people, have clear duties and responsibilities under Irish equality legislation.

Equality legislation the *Equal Status Act, 2004*<sup>5</sup> prohibits discrimination on the grounds of gender including transgender, civil status, family status, sexual orientation, religion, age, disability, race and membership of the Traveller community.<sup>6</sup>

As per Children First: National Guidelines for the Protection and Welfare,<sup>7</sup> anyone who works with young people has a general duty of care to ensure that arrangements are in place to protect children and young people from harm.

National standards relating to the care of young people in detention require that children in detention receive care in a manner which safeguards their rights and actively promotes their welfare.<sup>8</sup>

## 4.1 Human rights standards

The United Nations Convention on the Rights of the Child (UNCRC), to which Ireland is a party, sets out the rights to which all children, including children in detention, are entitled.<sup>9</sup> The Convention requires that all children are entitled to enjoy their rights without discrimination, they must have their best interests taken into account in all matters concerning children and have their views taken into account in all matters affecting them in line with their age and maturity. Under Article 40 of the Convention, every young person in conflict with the law has the right to be treated in a manner consistent with the promotion of their sense of dignity and worth, which reinforces the respect for the human rights and fundamental freedoms of others and which takes into account the young person's age and the desirability of promoting reintegration and assuming a constructive role in society.

Article 19 of the UNCRC makes it clear that young people should be protected from abuse and violence, and that steps must be taken to ensure that any maltreatment should be reported and investigated.

Regard should also be had to the UN Rules for the Protection of Juveniles Deprived of their Liberty (1990)<sup>10</sup> and the European Guidelines on Child-friendly Justice (2010).<sup>11</sup>

Under the *European Convention on Human Rights Act, 2003*, Oberstown is an 'organ of the state' required to act in a manner consistent with obligations under the European Convention on Human Rights.<sup>12</sup> State bodies that do not have sufficient policies and procedures in place to protect young

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<sup>5</sup> *Equal Status Acts 2000 to 2004*.

<sup>6</sup> The Irish government has recognised Travellers as an ethnic minority group. For an overview of the legislation and its definitions, see: Department of Education & Science and Equality Authority (2005) *Schools and the Equal Status Acts*. 2nd ed. Dublin: Department of Education and Science [http://www.education.ie/en/Publications/Education-Reports/ge\\_schools\\_and\\_equality.pdf](http://www.education.ie/en/Publications/Education-Reports/ge_schools_and_equality.pdf).

<sup>7</sup> DCYA, *Children First: National Guidelines for the Protection and Welfare*.

<sup>8</sup> Irish Youth Justice Service, *Standards and Criteria for Children Detention Schools* (Dublin: Department of Justice Equality and Law Reform, 2008).

<sup>9</sup> Available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CRC.aspx>

<sup>10</sup> Available at

[https://www.unodc.org/pdf/criminal\\_justice/United\\_Nations\\_Rules\\_for\\_the\\_Protection\\_of\\_Juveniles\\_Deprived\\_of\\_their\\_Liberty](https://www.unodc.org/pdf/criminal_justice/United_Nations_Rules_for_the_Protection_of_Juveniles_Deprived_of_their_Liberty).

<sup>11</sup> <http://www.coe.int/en/web/children/child-friendly-justice>

<sup>12</sup> European Convention on Human Rights. Available at: [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).

*European Convention on Human Rights Act, 2003*. Available at:

<http://www.irishstatutebook.ie/eli/2003/act/20/enacted/en/print.html>

people bullying, abuse and harm could potentially be in breach of Article 3 of the ECHR which provides protection against inhumane or degrading treatment.<sup>13</sup>

Regard should also be had to the European Convention for the Prevention of Torture and inhuman and degrading treatment and punishment (CPT).

## 5. Definitions

As per Children First, bullying can be defined as: "repeated aggression – whether it be verbal, psychological or physical – that is conducted by an individual or group against others. It is behaviour that is intentionally aggravating and intimidating, and occurs mainly among children in social environments such as schools. It includes behaviours such as teasing, taunting, threatening, hitting or extortion by one or more persons against a victim. Bullying can also take the form of racial abuse. With developments in modern technology, children can also be the victims of non-contact bullying, via mobile phones, the Internet and other personal devices."<sup>14</sup>

The following types of bullying behaviour are included in the definition of bullying:

- deliberate exclusion, malicious gossip and other forms of relational bullying,
- cyber-bullying and
- identity-based bullying such as homophobic bullying, racist bullying, bullying based on a person's membership of the Traveller community and bullying of those with disabilities or special educational needs.

## 6. Related Documentation

- Oberstown behaviour management policy.
- IYJS notifiable incidents policy.
- Oberstown safeguarding policy.
- Department of Education and Skills, anti-Bullying Procedures for Primary and Post-Primary Schools.<sup>15</sup>
- Office for Internet Safety, A guide to cyber bullying.<sup>16</sup>

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<sup>13</sup> In *O'Keeffe v Ireland*, Ireland was found to be in breach violation of Article 3 (prohibition of inhuman and degrading treatment) and of Article 13 (right to an effective remedy) of the European Convention on Human Rights concerning the Irish State's failure to protect Ms O'Keeffe from sexual abuse and her inability to obtain recognition at national level of that failure.

<sup>14</sup> Children First: National Guidance, at 9.4.

<sup>15</sup> Department of Education and Skills, anti-Bullying Procedures for Primary and Post-Primary Schools. Available at

<sup>16</sup> Department of Justice Office for Internet Safety, A guide to cyber bullying. Available at:

<https://www.education.ie/en/Publications/Policy-Reports/Anti-Bullying-Procedures-for-Primary-and-Post-Primary-Schools.pdf>  
<http://www.internetsafety.ie/website/OIS/OISWeb.nsf/page/EJST-A9FFEQ12255628-en>