

1. Introduction

With effect from 26 October 2024 and the introduction of the Worker Protection Act 2023 (an amendment to the Equality Act 2010), all employers have a legal duty to specifically protect their workers, and prevent sexual harassment in the workplace, and they must take reasonable steps to achieve this.

As part of the council's duty to prevent sexual harassment in the workplace, this policy has been created to educate and instruct all employees and councillors about behaviour that constitutes sexual harassment so they can ensure their own behaviour is appropriate and raise any concerns about the behaviour of others. It also ensures that staff and councillors are aware of what to do, should they experience or witness sexual harassment in the workplace.

This policy applies to the behaviour of employees, workers, any councillor acting on the council's behalf, as well as third parties.

Sexual harassment and victimisation are unlawful, and the council takes a zero-tolerance approach. Any and all complaints about sexual harassment or victimisation will be taken extremely seriously. Once a full investigation has been conducted, any breach of this policy could be regarded as gross misconduct, in accordance with the council disciplinary policy.

2. What is Sexual Harassment?

Sexual harassment is unwanted behaviour of a sexual nature. To be sexual harassment, the unwanted behaviour must have either:

- violated someone's dignity, whether it was intended or not
- created an intimidating, hostile, degrading, humiliating or offensive environment for them, whether it was intended or not

Sexual harassment can be a one-off incident or an ongoing pattern of behaviour. It can happen in person or in other ways, for example online through email, social media, or messaging tools.

What some people consider to be jokes or 'banter' is still sexual harassment if it fulfils any of the criteria above. Any defence by an employee of their behaviour which states the intention was to make a joke or their behaviour was 'just banter' will not be accepted.

Examples include:

- flirting, gesturing or making sexual remarks about someone's body, clothing or appearance
- asking questions about someone's sex life
- telling sexually offensive jokes
- making sexual comments or jokes about someone's sexual orientation or gender reassignment
- displaying or sharing pornographic or sexual images, or other sexual content
- touching someone against their will, for example hugging them

- sexual assault or rape

Sexual harassment is usually directed at an individual, but it's not always the case.

3. Rights and responsibilities

The council expects adherence to the following:

- The treatment of colleagues, members of the public, councillors, suppliers and any other visitors, or contacts, with dignity and respect at all times
- Awareness of the effect of how our own behaviour and activities can impact others
- Setting a positive example to all colleagues
- Consideration of the language, attitudes and culture of others
- The avoidance of making personal comments to or about others
- The reporting of any concerns about inappropriate behaviour to a senior member of staff
- The making of a complaint about inappropriate behaviour, whether they are the target or an observer
- Generally acting in a way that promotes dignity and respect in the workplace.

Any person who sexually harasses another person or people in the workplace is responsible for their own actions.

The definition of the 'workplace' includes behaviour:

- in a work situation; including on council premises, at work-related events, any work-related meetings, and whilst representing the council in a business capacity, in person and via email or messaging apps / software
- at a social event related to work
- towards a colleague, councillor or other person(s) connected to the council outside of a work situation, including via social media and any messaging apps / software
- outside of a work situation, but related to an incident relevant to their suitability to carry out their role

4. Reasonable steps

In order to fulfil its' duty to prevent sexual harassment the council will take the following action:

- Ensure this policy is provided to all employees, workers, councillors, and suppliers to ensure all parties are aware of council expectations regarding behaviour
- Provide mandatory training for all employees, workers, and councillors on an annual basis
- Provide mandatory training for managers to empower them to identify and address any concerns, and to deal with complaints appropriately
- Undertake annual risk assessments regarding sexual harassment, and review records of complaint

- Clear signage erected across council premises to make behaviour expectations clear to all visitors

5. Making a complaint

5.1 Informal process

If someone witnesses or is subjected to inappropriate behaviour believed to be sexual harassment, concerns should be raised informally with the person who is behaving inappropriately. The complainant should specify that they are /have witnessed another person, being sexually harassed, that it is unwanted, how it makes them feel, and that it must stop. If this is the case an apology should be obtained (either to the person in question or the person subject to the behaviour if it is observed) and an assurance that it will not happen again.

The council appreciates that in certain circumstances staff may not feel comfortable addressing the matter in this way, therefore the issue can be raised informally with a line manager or a more senior manager if appropriate.

On receipt of an informal complaint, managers are to do some, or all of the following, depending on the circumstances:

- Ask questions about the specifics of the incident(s) which is believed is sexual harassment, including what, how, when and where it took place
- Discuss how you wish them to proceed, which may include an informal discussion with the employee's manager about the complaint raised, or directly with the employee complained about, on the complainant's behalf
- Offer the complainant and the other employee mediation with a trained mediator
- Proactively conduct regular follow-up meetings with the complaint to establish if there has been any repeat of the behaviour complained about, or if the complainant has been victimised in any way for raising an informal complaint

5.2 Formal process

If attempts to address informal complaints regarding sexual harassment do not result in an improvement in the other person's behaviour and / or there is a repeat of the same behaviour by the person complained about; or if the sexual harassment is so serious, a formal complaint must be raised.

In order to make a formal complaint a written complaint should be submitted (which can be submitted via email), with full details of what has been experienced or witnessed, including what, how, when and where it happened. As much detail as possible should be included. A written complaint should be submitted to the line manager, or if the complaint is about a manager or a more senior manager, to their manager or another manager more senior than the person being complained about. The Clerk should submit a written complaint to the Mayor or the chair of the personnel committee.

Once a complaint is made, it will be dealt with in-line with the council grievance procedure in terms of the investigation and the rights of the complainant and the person being complained about, and the provision of an outcome, with the following specific additions:

- During the investigation, both parties will be spoken to sensitively, privately and confidentially about the complaint, and at all times treated with dignity
- Interventions may be implemented to prevent contact between the parties, during the investigation process, before an outcome has been delivered, this may include suspension on full pay
- The complainant will be given an estimated timescale for the investigation, which should be adhered to wherever possible. The complainant will be provided with information about external support available, including:
 - The Equality Advisory and Support Service
 - Protect (the whistleblowing charity)
 - Local advice centres (i.e. Citizens Advice)
 - Any relevant helplines or support groups applicable to deal with sexual harassment
- The investigator and decision-maker during the process will, wherever possible, be from a separate area of the business. If this is not possible the council may consider using a consultant to investigate and / or act as decision maker. Where internal colleagues are selected, the investigator and decision-maker must be more senior than the person being complained about, to prevent any issues regarding the balance of power.
- The gender of the investigator and decision-maker will be considered before making any appointment
- The complainant will be regularly updated regarding the progress and any unreasonable delays in the process will be explained and justified
- The investigator and decision-maker will have support from a trained person to ensure the process is dealt with correctly
- Employees who are spoken to as part of the investigation will be given the opportunity to be accompanied, which can be a colleague or a trade union representative. In certain circumstances an alternative companion may be allowed if that person would not receive appropriate support from a colleague or trade union representative, or to make a reasonable adjustment for someone with a disability or language barrier.
- All those interviewed as part of the investigation process will be told that the matter must be kept confidential, and any breach of this confidentiality will be regarded as a serious disciplinary issue.
- If the complaint is serious and may constitute a criminal offence the individual subjected to the behaviour will be informed of the possibility of raising the matter with the police. However any decision to do this is entirely for the employee and the council will respect their wishes on this matter, unless the incident is regarded as so serious that the need to protect the individual, and / or others, outweighs the need to fulfil the individual's wishes on this matter.

In making a complaint of sexual harassment, the complainant will not be treated detrimentally or victimised as a result of doing so. Any allegations regarding victimisation or detrimental treatment as a result of making a complaint will be treated as a serious disciplinary matter.

6. Complaints about a third party

The Council will provide any suppliers with this policy to ensure that expectations are clear, however the council is aware that this may not prevent inappropriate behaviour by people who are not employed by the council.

Whether experiencing or witnessing sexual harassment by a third-party, the matter should be raised directly with the person responsible, and as described in the informal process above. However the council is aware this is not always something one would feel comfortable doing. Should this be the case speak with a line manager or a senior manager in the business to discuss experiences and the potential next steps.

Clear signage regarding the council's zero-tolerance approach to sexual harassment of people in the workplace will be erected in council premises. Any visitor to council premises who commits a clear breach of this policy will be asked to leave the council premises, and where they are representing another company, their behaviour will be reported to their employer.

7. After making a complaint

If not satisfied with the outcome of the investigation into a complaint, and believe it to be either unfair, incorrect or does not address the issues raised, the complainant has the right to appeal the decision. Details of the appeals process are outlined in the council grievance procedure.

If the complaint is upheld, the council will consider if the disciplinary procedure should be instigated with the person complained about. The complainant will not be provided with the details of this process, however they will be informed if it has become a disciplinary matter, in order to be assured the matter is being dealt with appropriately.

Support

It is important that appropriate support is provided to those who make a complaint, and managers of those individuals who will be expected to conduct confidential meetings with individual members of their team. The Mayor or the chair of the personnel committee will be expected to conduct confidential meetings with the Clerk. A wellbeing check-in must be allowed for reassurance during the process that the matter is being taken seriously and to ensure that no one is subjected to victimisation.

Similar support should be offered to anyone who is implicated as a witness during the investigation, as this can be a challenging time for them. The council appreciates that witnesses' line manager's may be unaware of the situation due to confidentiality, so careful consideration should be given to who is best to provide support to witnesses.

Support should also be provided to the person who has been complained about during the investigation process. Managers of employees accused of sexual harassment should maintain

regular contact and ensure they speak with them privately and regularly to conduct a wellbeing check-in and reassure them that the investigation process will be conducted fairly.

Where a complaint against an employee has been upheld, any follow-up conversations should be conducted in an objective manner ensuring that any resulting disciplinary process is clearly communicated to the employee, ensuring they are treated with dignity regardless of the outcome.