

# Sexual Harassment Policy

Version **1.0**, 11 October 2023

# Document control

<b>Title</b>	Sexual Harassment Policy		
<b>Governance group</b>	Finance and Resources Committee		
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## Revision history

Version	Originator	Review start date	Revision description and record of change

## Document approvals

Version	Governance group	Date approved	Date approval to be requested (if document still in draft)
1.0	Finance and Resources Committee		22 November 2023

## Consultation record (for most recent update)

<b>Consultation status</b>	Stakeholders consulted		
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## Strategic alignment

### Plan for North Lanarkshire

Priority - Improve North Lanarkshire's resource base

Ambition statement - Build a workforce for the future capable of delivering on our priorities and shared ambition.

### Programme of Work

Statutory / corporate / service requirement

## Next review date

<b>Review Date</b>	2 years from date of committee approval
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# Contents

1. Introduction .....	1
2. Purpose .....	1
3. Legislation .....	2
4. Scope.....	2
5. What is sexual harassment? .....	2
6. Examples of sexual harassment .....	4
7. Third Party Harassment .....	6
8. Procedure.....	6
9. Investigation .....	7
10. Outcome.....	8
11. Right of appeal .....	8
12. Protection and Support Mechanisms .....	9
13. Confidentiality and Record keeping .....	10
14. Monitoring and Review .....	10

# 1. Introduction

The Council recognises that, both as an employer and service provider, it has a duty to ensure there is an open and honest working environment free from harassment where everyone is treated with dignity and respect. To reinforce this, the Council has established a set of organisational values which all employees are expected to follow. All employees should also be aware of the Council's Employee Code of Conduct and familiarise themselves with the contents of this.

The organisational values are: -

- respect – we will be open and honest in our dealings, involving and listening to others, demonstrating respect for our citizens, our partners and each other.
- commitment – we are committed to our citizens and our colleagues, seeking to understand needs, and delivering a quality service.
- pride in the job – we take pride in the job we do for the people and communities of North Lanarkshire.
- listening and learning – we will continually learn, transforming our organisation through the knowledge, capability, and initiative of our workforce.

## 2. Purpose

2.1 This Sexual Harassment Policy sets out a framework to deal with harassment that occurs by staff (which may include consultants, contractors, and agency workers) and also by third parties such as customers, suppliers, or members of the public. This Sexual Harassment Policy aims to protect employees, officers, consultants, self-employed contractors, casual workers, agency workers, volunteers and job applicants from unwanted sexual advances and give them guidelines to report incidents. The policy also outlines how we manage claims, deal with sexual harassment, and help victims recover.

The Council does not tolerate sexual harassment in the workplace in any shape or form. Our culture is based on mutual respect and collaboration. Sexual harassment is a serious violation of those principles and will not be accepted.

- 2.2 Employees should be aware of the following employment policies/guidance which may be considered in conjunction with this Sexual Harassment Policy: -
- Equality and Diversity in Employment Policy
  - Gender Based Violence Policy
  - Dignity at Work Policy
  - Grievance Policy
  - Discipline Policy
  - Data Protection Guidance
  - Acceptable Use of ICT Policy and Guidance
  - Employee Code of Conduct
  - Whistleblowing Procedure
  - Other relevant Professional Codes of Conduct

## 3. Legislation

- 3.1 The Equality Act 2010 is the principal piece of legislation that supports this policy.
- 3.2 The Equality Act 2010 protects people against sexual harassment and harassment related to 'protected characteristics', for example a person's sex.
- 3.3 Sexual harassment is different to harassment related to a person's protected characteristic, for example sexual orientation or gender reassignment. Someone could experience both types of harassment at the same time, or separately.

## 4. Scope

This policy applies to every person in the Council regardless of their sex, sexual orientation, level, function, seniority, status, or other protected characteristics.

The Council does not and will not tolerate sexual harassment from inside or outside of the organisation.

## 5. What is sexual harassment?

- 5.1 Sexual harassment is 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. A single incident can amount to harassment. It also includes treating someone less favourably because they have submitted or refused to submit to such behaviour in the past. Sexual harassment has many forms of variable seriousness. Examples of sexual harassment include:

- Unwanted physical conduct or “horseplay,” including touching, pinching, pushing, and grabbing.
- Continued suggestions for social activity after it has been made clear that such suggestions are unwelcome.
- Unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless).
- Insinuate, propose, or demand sexual favours of any kind.
- Invade another person’s personal space making them feel uncomfortable or uneasy.
- Stalk, intimidate, coerce, or threaten another person to get them to engage in sexual acts.
- Sending or displaying material that is pornographic or that some people may find offensive (including emails, text messages, video clips and images sent by mobile phone or posted on the internet).
- Comment on someone’s looks, dress, sexuality, or gender in a derogatory or objectifying manner or a manner that makes them uncomfortable.
- Make obscene comments, jokes or gestures that humiliate or offend someone.
- Pursue or flirt with another person persistently without the other person’s willing participation. Also, flirting with someone at an inappropriate time (e.g., in a team meeting) is considered sexual harassment, even when these advances would have been welcome in a different setting. This is because such actions can harm a person’s professional reputation and expose them to further harassment.

5.2 The most extreme form of sexual harassment is rape and sexual assault, and employees are encouraged to report any acts of this nature to the police.

5.3 The Council’s rules on sexual harassment are outlined as follows:

- The Council will not tolerate sexual harassment from inside or outside the organisation. Employees, officers, consultants, self-employed contractors, casual workers, agency workers, volunteers and/or job applicants and everyone interacting with the Council are covered by this policy.
- Any employee in the Council who is found guilty of serious harassment will be dealt with in line with the Council’s Discipline Policy.
- Sexual harassment is never too minor to be dealt with. Any kind of harassment can wear down employees and create a hostile workplace. We will hear every claim and discipline offenders appropriately.
- Sexual harassment is about how we make others feel. Many do not consider behaviours like flirting or sexual comments to be sexual harassment, thinking they are too innocent to be labelled that way. But, if something you do makes your colleagues uncomfortable, or makes them feel unsafe, you must stop.
- The Council will assume every sexual harassment claim is legitimate. If you have experienced any form of sexual harassment, the Council will ensure this matter is addressed appropriately. Occasional false reports do not undermine this principle, although false allegations will also be taken very seriously, and appropriate action taken.
- The Council will not allow further victimisation of harassed employees and will fully support employees who were sexually harassed and will not take any

adverse action against them. For example, we will not move them to positions with worse pay or benefits, or to a different location without their agreement or allow others to retaliate against them.

- Those who support or overlook sexual harassment are as much at fault as offenders. Managers are especially obliged to prevent sexual harassment and act when they have suspicions or receive reports. Letting this behaviour go on or encouraging it will bring about disciplinary action. Anyone who witnesses an incident of sexual harassment or has other kinds of proof should report to this to their manager or the Employment and Policy Team.

## 6. Examples of sexual harassment

The following examples are intended to provide illustrations of the types of behaviours that will constitute sexual harassment. They are not exhaustive and there are many more examples of such behaviour. Importantly, sexual harassment can arise in various forms and to different degrees. As part of the review process for this policy, the Council will ensure that the specific examples given in this policy are updated so as to reflect the specific work environment in which our staff operate taking account of the composition of our workforce and the types of work undertaken.

Certain types of harassment may be linked to more than one aspect of the recipient's identity. This is intersectional harassment. Examples that illustrate this are included here, but this policy is not fully intersectional and must be read with the Dignity at Work Policy for further guidance on other forms of discrimination.

### 6.1. Some forms of sexual harassment are clear violations of a person's dignity:

#### Example One

A black female worker overhears two colleagues discussing whether she would be willing to have sex with them. They express the view that she would be "really easy to get into bed" because "black women love sex."

### 6.2. Sexual harassment does not have to be targeted at one individual:

#### Example Two

A music promoter adds a link to their email signature to a promotional video for a rock band. In the video, scenes of a sexual nature are portrayed by actors. Every time they send an email to their colleagues and to their contacts outside the organisation, this link is received.

### 6.3. Sexual harassment does not have to be intentional:

#### Example Three

A male worker believes that his female colleague uses the fact he is in a wheelchair as an excuse to make physical contact with him. He feels the situation is complicated by the practicalities and power dynamics of needing support from others with certain tasks. He wants to report the issue but thinks she may not realise she has been doing this.

### 6.4. It is not necessary for the recipient to say that they object to the behaviour for it to be unwanted:

#### Example Four

A young woman's body is repeatedly referred to by two of her colleagues. These comments are made in front of her over several months. She does not voice any objection to the comments, sometimes laughing at them and, on one occasion, she responds by making equally offensive comments about one of her colleagues.

### 6.5. There may be circumstances in which a course of conduct is not unwanted in the earlier stages, but at some point 'oversteps the mark' and becomes unwanted.

#### Example Five

Two work colleagues become friendly, often having lunch together and occasionally meeting up outside of work. One Friday night, after a few drinks at the pub, they kiss and agree to meet again the following weekend. On the Monday morning, one takes the other to one side and explains that they regret what happened and would like to keep their relationship professional. The employee who wishes to keep the relationship going, texts and emails the other employee several times a day over the next week, expressing their affection and upset at the 'change of heart' and repeatedly asking to meet up outside of work despite this request being repeatedly refused.

### 6.6. There may be circumstances where behaviour feels appropriate to those involved but causes concerns for others who may see or overhear it, even if nothing is targeted at them. This could still amount to sexual harassment in breach of this policy.



## Example Six

A group of employees are chatting in the office about the finale of a TV show that they have all been watching. The TV show is popular though it is renowned for being sexist and sexually explicit at times. Those engaged in the conversation are all comfortable talking about the show and the sexual content, focussing on scenes depicting lesbian activity. However, others who sit in the open plan office feel uncomfortable. They are worried that the group may try to involve them in the conversation as they do not want to talk about a show that they find misogynist, homophobic and degrading to women. They do not think anyone needs to be discussing it at work. They are also worried that if they voice that view, they will be judged by the group who like the show

## 7. Third Party Harassment

- 7.1 The sexual harassment of employees will not be tolerated, whether caused by those that work for the Council or third parties including customers, suppliers, clients, or members of the public.
- 7.2 Where the complaint is about someone other than an employee, the Council will consider what action is appropriate to protect the individual raising the concern and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the Council and the rights of that person. Where appropriate, the Council will attempt to discuss the matter with the third party.
- 7.3 Any instance of work-related sexual harassment should be reported in line with this policy, regardless of who the alleged perpetrator is. The Council will act in accordance with the Equality and Human Rights Commission Guidance on third party sexual harassment and employer's liability available here: [Sexual Harassment and Harassment at Work](#)

## 8. Procedure

- 8.1 If someone covered by the scope of this policy feels that they are being sexually harassed (or suspect another person is being harassed), they should consider whether they feel able to raise the problem with the person responsible. It should be explained that their behaviour is not welcome and makes the employee feel uncomfortable.
- 8.2 If this is too difficult, employees should speak to their manager in the first instance who can provide advice and assistance in resolving the issue formally or informally.
- 8.3 If the employee feels unable to speak to their manager because the complaint involves them, the employee should speak to the Employment and Policy Team. The Council acknowledges it is often hard to come forward about these issues, but need employees and managers help to build a fair and safe workplace for all employees.

- 8.4 Individuals making a report of sexual harassment can do this by either asking for a meeting with their line manager and/or the Employment and Policy Team or sending the complaint via email to their line manager and/or Employment and Policy Team.
- 8.5 The written complaint should set out full details of the conduct in question, including the name of the harasser, the nature of the 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 prevent it from occurring. Employees should provide any evidence or information that they can which can be used in the investigation. As a general principle, the decision to progress a complaint is up to the individual. However, the Council has a duty to protect all staff and may pursue the matter independently if, in all the circumstances, it is appropriate to do so.
- 8.6 Individuals may also feel that they want to report the assault to the police, and if they do the Council will provide any possible support until the matter is resolved. Employees should advise their manager or the Employment & Policy Team of this if appropriate. In any case, we will ensure that employees are not victimised and have access to relevant evidence admissible in court, like security video footage or emails.
- 8.7 Following submission of a complaint, appropriate officers will be appointed to conduct a thorough and impartial investigation in a timely, respectful, and confidential manner. Individuals not involved in the complaint or the investigations should not be told about it. The outcome of the investigation may result in action, including possible disciplinary action, being taken against the employee who is the subject of the complaint.

In all cases, the individuals concerned will be treated sensitively, with confidentiality being maintained at all times.

## 9. Investigation

- 9.1 Where an investigation is undertaken using this policy, the investigating panel will comprise a minimum of two people, one of whom should be a representative from the Employment and Policy Team. Consideration should always be given to the composition of the panel in light of the circumstances of the investigation so it may be appropriate to have a woman only or men only panel depending on the nature and sensitivity of the case. The investigating officer will be drawn from outwith the immediate section of the person(s) involved.
- 9.2 An investigation into a formal complaint through the Sexual Harassment Policy should normally be completed within 12 weeks, where possible and reasonable. Completion within this timescale will be dependent on the extent and complexity of the investigation and the sensitivity of the matter being investigated. At the start of the investigation, both parties will be advised how long the investigation is likely to take and the name of the Lead Investigation Officer undertaking the investigation. The Lead Investigation Officer will keep both parties informed if the indicative timescale will not be met, advising both parties of an anticipated revised completion date, giving reasons for the revised timescale.

- 9.3 The Council will seriously consider any request made for changes to working arrangements during the investigation. For example, an employee may ask for changes to duties or working hours to avoid or minimise contact with the alleged harasser. It may be necessary to interview witnesses to any of the incidents mentioned and, if so, the importance of confidentiality will be emphasised to them.
- 9.4 The investigation report will be submitted to the nominated Senior Officer who will meet with the employee to discuss the outcome and what action, if any, should be taken. A copy of the report will be provided, and the Senior Officer's findings will be provided to the employee and to the alleged harasser. The Employment and Policy Team have a responsibility for assisting managers and supervisors to carry out recommendations arising from investigations, as appropriate.

## 10. Outcome

- 10.1 The appropriate action taken in any case will be dependent on all of the circumstances of the case and the individuals involved. An objective decision should be made on whether sexual harassment has taken place having considered the findings of the investigation panel. It is not possible to provide the definitive course of action to be adopted in each case. If the Senior Officer considers that harassment has occurred, prompt action will be taken to address it.
- 10.2 Where the harasser is an employee of the Council, the matter will be dealt with as a case of misconduct or gross misconduct under the Discipline Policy. If the harasser is a third party such as a customer or other visitor, consideration will be given to what action would be appropriate to deal with the problem.
- 10.3 Whether or not a complaint is upheld, consideration will be given to how best to manage the ongoing working relationship. 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.
- 10.4 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 the Discipline Policy.

## 11. Right of appeal

- 11.1 If, following the investigation, the complainant is unhappy with the decision of the nominated Senior Officer not to uphold a formal complaint, or uphold it only in part, they will have the opportunity to exercise their one right of appeal against the decision, which will be considered at Service level.
- 11.2 In such circumstances the employee must write to the Chief Officer of People Resources within 14 days of receiving the decision of the nominated Senior Officer, detailing the reasons why they are dissatisfied. In general, an appeal may be submitted where:

- The complainant has not received enough information about the findings of the investigation.
  - The complainant disagrees with the actions/findings of the investigation and/or the nominated Senior Officer's actions/findings.
  - The complainant feels that procedural errors occurred in the investigation.
- 11.3 The Chief Officer of People Resources will acknowledge receipt of the appeal letter, in writing, within 7 days of receiving it.
- 11.4 The appeal process will not re-investigate the original complaint. The appeal will consider whether the outcome of the original investigation was conducted in a comprehensive and thorough manner, and the conclusions reached were logical and based on all available evidence. The appeal will consider:
- Were the findings appropriate and based on evidence? Was any evidence missed? Is there fresh evidence now available?
  - Was the information supplied to the employee sufficient to allow them to understand the outcome and the reasons why?
- 11.5 When an appeal letter has been received, the Chief Officer of People Resources will inform all parties involved in the investigation that an appeal has been received and will nominate a Senior Officer to conduct an appeal hearing, with a representative from the Employment and Policy Team.
- The appeal will normally be undertaken within a further 21 days.
- 11.6 The nominated Senior Officer will then confirm in writing to the complainant the outcome of the appeal within 7 days and will also confirm that there is no further right of appeal.

## 12. Protection and Support Mechanisms

- 12.1 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 disciplinary action under our Discipline Policy. If an employee believes that they have suffered such treatment, they should inform their line manager. If the matter is not remedied, they should raise it formally using the Dignity at Work Policy.
- 12.2 Counselling can be a useful support mechanism when dealing with complaints of sexual harassment. This service is available to both the complainant and the employee who is the subject of the complaint during any stage of the process and on completion of the process. Further information on employee counselling can be accessed on Mil.
- 12.3 Support Officers – Dignity at Work, Trades Union representatives, members of the Employee Equality Forum, Line Managers and Employment and Policy Team representatives can also offer support and advice to both parties, both during and after the process. Further information is available on MyNL.
- 12.4 Further information is available from the Employment and Policy Team.

## 13. Confidentiality and Record keeping

- 13.1 Confidentiality is an important part of the procedures involved under this policy. Details of the investigation and the names of the person making the complaint and the person accused must be disclosed on a “need to know basis.” Breach of confidentiality may give rise to disciplinary action under the Discipline Policy.
- 13.2 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 any other documents compiled during the process. These will be processed in accordance with our Data Protection Policy.

## 14. Monitoring and Review

The **Finance and Resources Committee** has **approval** authority for, and oversight of, this policy. The **Employment and Policy Team** – as **key stakeholders** – oversee its review and consider its contents before referring it on for approval. The **Chief Officer of People Resources** – is **accountable** for its governance.

The **Employment and Policy Team** is **responsible** for the following activities.

1. Produce, publish, and promote this policy.
  - a. Write it in a way that is easy to read and understand.
  - b. Consult with relevant stakeholders on its content and implications.
  - c. Make sure all users can access it.
2. Give guidance on how to apply and comply with this policy through standards, toolkits and guidance, legislation and regulations and other related policies and procedures – see here for toolkits and other sources of information.
3. Review and report on this policy.
  - a. Review every two years, with other reviews when needed. For example, following new legislation, new external or internal strategies/plans, to align with best practice.
  - b. Report to management teams, governance and working groups, committees, and scrutiny panels.