

Draft Sexual Harassment Policy

v.1.0	Andrea Malam	New Policy in line with the legislation Worker Protection (Amendment of Equality Act 2010) Act 2023.
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Introduction

Denbighshire County Council is committed to providing an inclusive and supportive working environment for everyone who works here. This includes a zero-tolerance approach to sexual harassment and what appropriate steps should be taken to achieve this. Sexual Harassment is unlawful under the Equality Act 2010.

All workplaces should be free from any form of harassment and Denbighshire County Council is no exception. We will treat such matters very seriously, and this policy sets out how all our employees can seek support and report any unwanted behaviours. Equally, it is the obligation and responsibility of every employee, agency worker, volunteer, contractor and prospective job applicant to ensure that the workplace is free from sexual harassment.

Aims of the Policy

The policy aims to make clear the standards of behaviour we expect from all who work here, consistent with the council's values, including:

- Advise what constitutes sexual harassment.
- Make clear the professional behaviour expected of all employees, agency workers, volunteers, contractors and prospective job applicants.
- Empower those to raise a complaint by setting out a clear process.
- Support those who are affected by sexual harassment.
- Make clear the responsibility on the council, and managers, to remove sexual harassment from the workplace.
- Make clear the expectation of all members to be an upstander, challenging sexual harassment if observed or otherwise believed to be happening in the workplace.
- To ensure individuals know the support available in the council.

Purpose

The purpose of this document is to outline Denbighshire County Council's position on sexual harassment and to document the process which is to be followed should any grievances arise.

The principles set out in this policy are intended to apply to any work-related context, including conferences, training, external meetings, work functions, social events and business trips.

Definitions

Sexual harassment means any unwelcome sexual advance, unwelcome request for sexual favours, or other unwelcome conduct of a sexual nature which makes a person feel offended, humiliated or intimidated, and where that reaction is reasonable in the circumstances. Examples of sexual harassment include, but are not limited to,

- sexual comments or jokes
- displaying sexually graphic pictures, posters or photographs
- suggestive looks, staring or leering
- propositions and sexual advances
- making promises in return for sexual favours
- sexual gestures

- intrusive questions about a person's private or sex life or a person discussing their own sex life
- sexual posts or contact on social media
- spreading sexual rumours about a person
- sending sexually explicit emails or text messages
- unwelcome touching, hugging, massaging or kissing
- excessively lengthy handshakes;
- Sexual Assault

Behaviour that is based on mutual attraction, friendship and respect is not sexual harassment.

Legislation

Under equality law Worker Protection (Amendment of Equality Act 2010) Act 2023, employers must take reasonable steps to prevent sexual harassment of workers.

The Equality Act 2010 defines sexual harassment as unwanted conduct of a sexual nature which has the purpose or effect of violating someone's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

ACAS states that in order to be sexual harassment, the unwanted behaviour must have either:

- violated someone's dignity
- created an intimidating, hostile, degrading, humiliating or offensive environment for someone

It can be sexual harassment if the behaviour:

- has one of these effects even if it was not intended
- intended to have one of these effects even if it did not have that effect

Under the Equality Act 2010 employers have a positive legal duty to take reasonable steps to prevent sexual harassment of their workers. This is called the preventative duty.

If the council does not comply with the Equality Act, they are breaking the law. The preventative duty is designed to improve workplace cultures by requiring employers to anticipate how sexual harassment might happen in their workplace and take proactive reasonable steps to prevent it happening.

The preventative duty includes worker-on-worker harassment and harassment by third parties such as customers, clients or patients.

The council will be liable for sexual harassment committed by their workers in the course of their employment unless they can show that they took all reasonable steps to prevent the harassment. 'In the course of employment' includes acts committed in any other place where the worker is working such as offsite, at a training course, conference or external meeting, as well as other circumstances in which the worker is not actually working but are connected with work (such as at a leaving, Christmas party).

Responsibilities

We all have a responsibility to create and maintain a work environment free of harassment and victimisation and to treat our colleagues with dignity and respect.

Individuals are responsible for: -

- Being aware of how their behaviour may affect others.
- Treating colleagues with dignity and respect.
- Taking a stand if inappropriate jokes, comments, or gestures are being made.
- Making it clear to others when their behaviour is unacceptable.
- Intervening to stop sexual harassment and discreditable conduct and giving support to anyone who may have been harassed.
- Reporting harassment to a manager or Human Resources.
- If a complaint of harassment is made, not prejudging, or victimising the complainant or alleged harasser.

Please note that simply ignoring and/or walking away from such incidents or refusing to get involved is not acceptable and may even be seen as collusion allowing it to continue within the policing culture. Sexual harassment must be challenged and reported.

Managers have a responsibility to: -

- Implement the zero-tolerance policy on sexual harassment
- Set a good example by their own behaviour.
- Ensure that there is a proactive and supportive working environment.
- Make sure that staff know the standard of behaviour that is expected of them.
- Intervene to stop bullying or harassment.
- Report promptly to Human Resources any complaint of harassment, or any incident of harassment witnessed by them and ensure that appropriate steps are actioned.

The Council has a responsibility to ensure that sexual harassment will not be tolerated in the workplace and that complaints will be taken seriously, will be dealt with quickly and will be treated as serious disciplinary offences and may be considered as gross misconduct.

General

Sexual harassment can happen regardless of the individual's or alleged perpetrators gender identity or sexual orientation.

The council recognise, however, that women are significantly more likely to experience sexual harassment and that there is a gender equality issue in relation to sexual harassment. If sexualised behaviour and sexual objectification of women is perceived to be tolerated in the workplace, it is more likely that sexual harassment will occur.

The council also recognise that there is an issue of intersecting protected characteristics in relation to sexual harassment, and that there may be additional concerns for Black or minoritised employees, Lesbian, Gay, Bisexual and Transgender (LGBTQIA+), disabled

and younger workers where the harassment may be bound up with other forms of discrimination.

Sexual harassment in the workplace may occur from:

- Someone you work with.
- A manager, supervisor, or someone else in a position of authority.
- A member of the public / visitor.

Sexual harassment is usually directed at an individual or minority group, but that is not always the case. It may be perpetrated by one individual, a pair, a small group, a large group, or to permeate through a department of the council.

Sometimes there can be a culture of sexual harassment in a workplace that is not specifically aimed at one person – such as sharing sexual images and leering at members of the public. Please note that this is not acceptable behaviour and it will not be tolerated. In this scenario, someone would be entitled to make a complaint of sexual harassment in this situation.

An individual can experience sexual harassment from someone of the same or different gender and the recipient of the behaviour decides whether the approach was unacceptable or undignified.

Sexual harassment can be a one-off event and does not need to be directed at a person. It can be witnessed or overheard. Sexual conduct that has been welcomed or tolerated in the past may, over time, become unwanted and if it continues becomes harassment.

As a council we are liable for sexual harassment committed by our staff, volunteers, agency workers, contractors etc. during their employment / volunteering/ contract unless we can show that we took all reasonable steps to prevent the harassment. 'In the course of employment' includes acts committed in any other place where work is conducted such as offsite, at a training course, conference, or external meeting, as well as other circumstances in which the officer / staff member is not actually working but relate to work, such as at a leaving party, Christmas or other social event.

Taking Action

Denbighshire County Council wants to provide a professional working environment for its employees, agency workers, contractors and volunteers and has a 'duty of care' to do so. Everyone has the right to a working environment free of harassment, from others within the council and members of the public. Denbighshire County Council will proactively support such a working environment.

Denbighshire County Council will ensure reasonable action is taken to prevent sexual harassment in the workplace and ensure there is support available for anyone who feels they have had their dignity violated or where an individual(s) has created an intimidating, hostile, degrading, humiliating or offensive environment, whether intended or not.

Reasonable action includes:

- Setting standards and a culture so all are made aware that such behaviour will not be tolerated.
- Providing opportunities for teams to discuss sexual harassment and the importance of tackling unlawful and discriminatory practices.
- Ensuring there is a clear reporting process in place (via the grievance process submitted to Human Resources Services Manager and Head of Services)
- Ensuring accusations are fully investigated and appropriate action taken.
- Ensuring support is available to individuals affected by sexual harassment.

Setting Standards

The Code of Conduct is the starting point of behaviours and attitudes for everyone who works in the council. It sets out the principles and standards of behaviour we expect to see from employees, agency workers, contractors and volunteers.

Elected Members

Where an individual believes themselves to have been sexually harassed by an elected member, the matter will be dealt with in accordance with this procedure and in conjunction with the Protocol for Members/Officer Relations which can be found in 5.3 of the Council's Constitution.

The Monitoring Officer should be informed of all complaints relating to elected members.

Training

Training and information are crucial to the success of policies on sexual harassment and in changing the workplace environment.

Training programmes should include:

- Details on the policy, its implementation, and promotion.
- What misogyny, sexism and sexual harassment mean, their effects and consequences.
- What victimisation means.
- How to report incidents and unacceptable behaviour.
- How to address issues of third-party harassment if applicable.
- How to get support.
- The help available to those being harassed.

Records should be kept ensuring that everyone is trained and that they regularly receive refresher training. Staff should also be encouraged to help each other, either by lending support or informing management of their concerns through the appropriate channels. The training should also make it clear that staff have a right to be accompanied by a trade union representative at all stages.

Clear Reporting Process

Individuals are encouraged to come forward if they believe they have been harassed. Denbighshire County Council has robust procedures in place designed to promptly take action without isolating the complainant.

Wherever possible, the council will try and ensure the individual and alleged harasser are not required to work together whilst the complaint is under investigation.

Individuals who have been harassed should raise the issue to their line manager, another trusted line manager within the organisation or Human Resources via the grievance process. If an individual becomes aware of sexual harassment between a colleague and another individual, it is your responsibility to raise the issue to a line manager, another trusted line manager within the organisation or Human Resources.

Sexual harassment can also give rise to situations where there is coercive or predatory behaviour. If intimate relationships arise between colleagues and if anyone has concerns about any predatory or coercive element to the relationship, they are encouraged to report the issue to a line manager, another trusted line manager within the organisation or Human Resources.

Investigations into complaints or allegations of sexual harassment may also lead to a criminal investigation being instigated. Where there are concerns that a criminal act has taken place, advice must be taken from the legal department. If a criminal act is suspected any action taken must avoid prejudicing the criminal investigation. Appropriate action will be taken depending on the circumstances.

Any investigations into allegations of sexual harassment by employees, agency workers, volunteers and contractors will be conducted by Human Resources, with the support of other departments / teams where appropriate.

Confidentiality will be maintained, subject to any requirement to involve external agencies where a criminal offence may have been committed or where maintaining confidentiality would pose a risk to the person making the report, or to others.

The council will keep centralised, confidential records of all concerns raised, formal and informal. This will enable further exploration and trends to be identified.

What to do when a harassment complaint is made

The council must act immediately to resolve the complaint, taking into account how the person wants it to be resolved. The confidentiality of all parties must be respected.

The council must take steps to protect the complainant from ongoing harassment or being victimised during an investigation or complaint. For example, move the alleged harasser to another team or location. You should also protect witnesses to the sexual harassment.

If an employee, agency worker, volunteer, contractor or job applicant makes a complaint of harassment that may be a criminal offence, the council will speak to the individual

about whether they want to report the matter to the police and support them with this if they go ahead.

The council will always communicate the outcome of the complaint and outline the [Corporate Appeals Process](#) to the complainant in a timely manner.

Third Party Harassment

Harassment by a third party, such as a customer, client, patient, or supplier, should be treated just as seriously as that by a colleague.

The council will take steps to prevent this type of harassment, including putting reporting mechanisms in place or assessing high-risk workplaces where staff might be left alone with customers.

Misconduct Process

The alleged perpetrator, will be fairly investigated through the appropriate process.

All complaints of sexual harassment will be taken very seriously. Denbighshire County Council will handle any investigation in a way that's fair and sensitive to:

- The person who made the complaint
- Someone who witnessed it
- Someone who has been accused of sexual harassment

An individual who sexually harasses someone at work will be held responsible for their actions and if an employee of Denbighshire County Council faces an investigation into their conduct at work, this could result in disciplinary action up to and including dismissal.

Support and Advice for Individuals

There are many sources of support available. These include: -

- Line Managers
- Human Resources
- Occupational Health
- Trade Union Representatives
- Employee Assistance Programme (EAP)

Further Advice

For further advice regarding how to act on any disclosure of sexual harassment in the workplace, you are encouraged to speak with your HR Business Partner, Assistant HR Business Partner or HR Specialist.

Workplace Risk Assessment

Denbighshire County Council will commit to assessing the risk of sexual harassment. When doing a risk assessment, the factors that might increase the likelihood of sexual harassment and the steps that can be taken to minimise them will be included.

Training

Employees, including managers and senior staff, will be trained on:

- what sexual harassment in the workplace looks like
- what to do if they experience or witness it
- how to handle any complaints of harassment
- how to address third party sexual harassment concerns or complaints

Training will be reviewed on a regular basis and refresher sessions where necessary.

Related Policies and Documents

This policy should be read in conjunction with the following council documents and policies:

- Code of Conduct
- Disciplinary Policy
- Grievance Policy
- Equality and Diversity in Employment Policy
- Corporate Appeals Policy
- Anti Bullying and Harassment Policy

Policy monitoring and Review

This policy will be reviewed in line with all other HR policies, however there will be constant monitoring of the policy and its effectiveness and if necessary, the policy will be amended and any changes implemented as necessary.