

Agenda Item	<b>16</b>
Report No	<b>RES/33/23</b>

## The HIGHLAND COUNCIL

**Committee:** Corporate Resources Committee

**Date:** 6 September 2023

**Report Title:** Sexual Harassment Policy

**Report By:** Chief Executive

### 1. Purpose/Executive Summary

- 1.1 This report outlines the requirement for a Standalone Sexual Harassment Policy as part of the Council's ongoing work to achieve bronze accreditation as an Equally Safe at Work (ESAW) employer. Sexual Harassment is currently covered as a form of harassment within the existing wider Bullying & Harassment Policy.
- 1.2 The ESAW accreditation programme developed by [Close the Gap](#) (CTG), enables employers to better support employees who have experienced gender-based violence and work towards creating an inclusive workplace culture that prevents violence against women.
- 1.3 The standalone Sexual Harassment Policy recognises that sexual harassment can happen to men, women and people of any gender identity or sexual orientation; and that it can be carried out by anyone of the same sex, a different sex or anyone of any gender identity.
- 1.4 As with the existing Bullying & Harassment Policy, the standalone Sexual Harassment Policy will not apply to staff on Agenda for Change for whom there is an NHS Scotland Bullying and Harassment Policy.

### 2. Recommendations

- 2.1 Members are asked to:
  - i. Approve the standalone Sexual Harassment Policy at **Appendix 1**.
  - ii. Note that the existing Bullying and Harassment and Grievance policies will be modified to reflect the separate Sexual Harassment Policy.
  - iii. Note the training planned for Nominated Bullying & Harassment Senior Officers and HR Officers, and the availability of this training for all staff.

### **3. Implications**

- 3.1 Resource – face to face training will be carried out within the HR team and wider awareness training is available via Traineasy (e-learning platform).
- 3.2 Legal – the Equality Act 2010 requires the Council to meet the duties of the Public Sector duty - to remove/reduce disadvantage suffered by people because of a protected characteristic; meet the needs of people with protected characteristics; and encourage people with protected characteristics to participate in public life and other activities.
- 3.3 Community (Equality, Poverty, Rural and Island) – there are no poverty, rural or island implications. A dedicated policy covering sexual harassment will reinforce the Council's commitment to equalities.
- 3.4 Climate Change / Carbon Clever – there are no implications.
- 3.5 Risk – a standalone Sexual Harassment Policy is a requirement of bronze accreditation as an Equally Safe at Work employer. In addition, the policy helps mitigate risk arising from litigation and potential internal claims.
- 3.6 Health and Safety (risks arising from changes to plant, equipment, process, or people) – avoidance or potential reduction of stress related absence and increased level of staff wellbeing.
- 3.7 Gaelic – there are no implications.

### **4. Background**

- 4.1 The Council's existing Bullying and Harassment Policy aims to take all reasonable steps to prevent bullying or harassment and to provide guidance where problems occur and prevent any recurrence. Any complaint should be dealt with seriously, without undue delay and, where practicable, in confidence. Staff can raise a formal complaint using the existing Grievance Policy.
- 4.2 The Bullying and Harassment Policy supports the Council's commitment to provide equality of opportunity and to tackle unlawful discrimination under the terms of the Equality Act 2010 and the protected characteristics of: Age; Disability; Gender reassignment; Marriage and civil partnership; Pregnancy and Maternity; Race; Religion or belief; Sex, and Sexual orientation.
- 4.3 Allegations of bullying and harassment are currently addressed under the Council's Bullying and Harassment Policy. The work which has been ongoing to become accredited as an Equally Safe at Work (ESAW) employer requires us to develop a separate standalone Policy on Sexual Harassment.

### **5. Development of a Separate Sexual Harassment Policy**

- 5.1 This attached policy has been developed in consultation with the unions and services through the HR Sub Group.

- 5.2 The new standalone policy enhances what is already contained within the existing Bullying & Harassment Policy in relation to sexual harassment, by including the following:
- The prevalence of sexual harassment.
  - The impact and consequences of sexual harassment on the individual and the workplace.
  - Example behaviours that may constitute sexual harassment.
  - Support available including how a complaint can be made via the Grievance policy.
  - Support for staff who may experience sexual harassment by a third party in the course of their work.
- 5.3 Any grievance relating to Bullying & Harassment should be submitted to a Nominated Bullying & Harassment Senior Officer who will oversee the appropriate handling of the grievance. Additional nominated senior officers have recently been recruited and training is planned during September.
- 5.4 In addition, existing Bullying & Harassment contacts, who are available as an initial point of contact for staff who feel they are experiencing bullying or harassment, have received additional Sexual Harassment training.

## **6. Implementing the Sexual Harassment Policy**

- 6.1 On approval of the standalone policy, this and the modified related policies (Bullying & Harassment and Grievance) will be published via the HR microsite.
- 6.2 Refresher training is also planned for HR Officers in supporting managers to deal effectively with bullying and harassment related issues.
- 6.2 Training is in place for all staff on Bullying & Harassment and this will continue to be promoted alongside new Sexual Harassment training provided by Close the Gap.
- 6.3 The policy will be monitored in line with our standard HR policy monitoring process and reviewed on an annual basis.

Designation: Head of People

Date: 11 August 2023

Author: Isabel McLellan HR BP, Elaine Barrie Head of People

Background Papers:

Appendices:

**Appendix 1 - Sexual Harassment Policy**



Human Resources  
Goireasan Daonna

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# **Sexual Harassment Policy**

## **Poileasaidh Sàrachadh Gnèitheasach**

# Contents

## Clàr-innse

<b>Section 1:</b>	<b>Document Control</b>	<b>1</b>
<b>Section 2:</b>	<b>Introduction</b>	<b>2-3</b>
<b>Section 3:</b>	<b>Policy Purpose</b>	<b>4</b>
<b>Section 4:</b>	<b>Guidance</b>	<b>4</b>
<b>Section 5:</b>	<b>Definitions</b>	<b>4-5</b>
<b>Section 6:</b>	<b>Commitments</b>	<b>5</b>
<b>Section 7:</b>	<b>Context</b>	<b>6</b>
<b>Section 8:</b>	<b>Procedure</b>	<b>7-8</b>
<b>Section 9:</b>	<b>Disciplinary Action</b>	<b>9</b>
<b>Section 10:</b>	<b>Quick Links</b>	<b>10</b>

# Document Control

## A: Version History

Version	Date	Author	Change
1.0		Caitlin Souter and Isabel McLellan	Amended wording including additional TUC stats. Update of Nominated Senior B&H Officers. Inclusion of ALISS support links.

## B: Document Approval

Name	Title	Role
Caitlin Souter	Graduate Intern	Author
Isabel McLellan	HR Business Partner	Author
HR Sub Group	TU Representation	Reviewer

# Introduction

Every day, people across the UK are sexually harassed at work. Our current laws put the onus on individuals to report such incidents but 4 out of 5 don't feel able to talk to their employer.

It should not be down to the individual to prevent and manage their harassment alone. We believe, just like health and safety measures protect us from risks to our wellbeing, employers need to protect us from harassment, whether it comes from a colleague or from a third party such as a client or customer."



**1 in 2**

Women have been sexually harassed at work



**2 in 3**

LGBT workers have experienced sexual harassment in the workplace

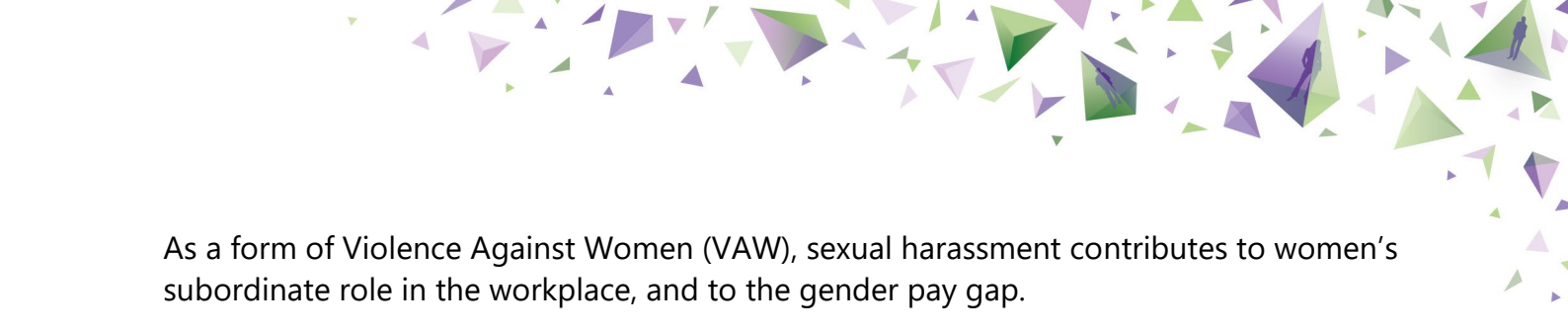


**4 out of 5**

Don't report - it can be a confusing, isolating and traumatising experience

- Women are three times more likely than men to experience sexual harassment
- The perpetrators of sexual harassment are overwhelmingly male
- Younger women are more likely to experience sexual harassment and online harassment
- Tenure, contract type and casualisation is a factor
- Male-dominated workplaces and occupational segregation are factors
- An abuse of power is the common feature in sexual harassment
- Around seven out of ten LGBT workers experienced at least one type of sexual harassment at work (68 per cent) and almost one in eight LGBT women (12 per cent) reported being seriously sexually assaulted or raped at work.

*(Source: tuc.org.uk)*



As a form of Violence Against Women (VAW), sexual harassment contributes to women's subordinate role in the workplace, and to the gender pay gap.

Women's economic inequality reduces their financial independence, restricts their choices in employment, and in life, and creates a conducive context for VAW. Financial dependence and poverty are both primary risk factors that diminish women's resilience and options in the face of violence.

*(Source: Close the Gap).*

The Highland Council is committed to equality of opportunity in employment for all employees, regardless of any of the following protected characteristics:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation.

In line with our aim to be Ambitious, Sustainable and Connected, we strive to offer an inclusive and supportive environment where everyone is treated with respect.

The Council has a zero-tolerance approach to sexual harassment which is a form of Gender-Based Violence (GBV).

Sexual harassment can happen to men, women and people of any gender identity or sexual orientation. It can be carried out by anyone of the same sex, a different sex or anyone of any gender identity.

*(Source: [acas.org.uk](https://www.acas.org.uk))*





## Policy Purpose

The Highland Council's Sexual Harassment Policy aims to take all reasonable steps to prevent harassment of a sexual nature, and to provide guidance where problems occur and to prevent any recurrence. Any complaint will be dealt with seriously, without undue delay and, where practicable, in confidence.

This policy applies to all Highland Council employees and covers sexual harassment in the workplace, in any work-related setting, and third-party harassment.

## Guidance

For further Guidance please refer to the Bullying and Harassment and Equal Opportunities Guidance linked at the bottom of this Policy and on the [HR Microsite](#).

## Definitions

### Sexual Harassment

Sexual Harassment is defined in the Equality Act 2010 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'. Conduct that has any one or more of these effects can be harassment even if the effect was not intended.

Sexual harassment can happen to men, women and people of any gender identity or sexual orientation. It can be carried out by anyone of the same sex, a different sex or anyone of any gender identity.

*(Source: [acas.org.uk](http://acas.org.uk))*

The Equality Act 2010 enables employees to complain of behaviour that they find offensive even if it is not directed at them. The complainant need not possess the protected characteristic themselves.

## Who is protected?

The Equality Act protects the following people against sexual harassment at work:

- Employees and workers
- Contractors and self-employed people hired to personally do the work
- Job applicants.

Examples of sexual harassment include, but are not limited to:

- Sharing sexually inappropriate images or videos, such as pornography
- Sending suggestive letters, notes, or e-mails
- Displaying inappropriate sexual images or posters in the workplace
- Telling lewd jokes or sharing sexual anecdotes
- Making inappropriate sexual gestures
- Abuse of authority or power by those in positions of seniority.

Any sexual action that creates a hostile work environment is considered sexual harassment, and the victim of the harassment may not only be the target of the offence, but anyone who is negatively affected by the inappropriate behaviour.

## Third Party Harassment

Third-party sexual harassment occurs when a person who is not associated with the Council sexually harasses a Council employee.

Any instances of third-party harassment can be reported through the dedicated phone line. All calls to **01349 886622** will be answered by trained Customer Services staff. Incidents will be investigated by your line manager.

[Violent Incident by third party Reporting flowchart](#)



## Commitments

### The Council will:

- Promote a workplace culture where sexual harassment is not tolerated and where employees are treated, and treat each other, with dignity and respect.
- Put in place policy and guidance to inform and support employees to deal with unwanted and unacceptable behaviour of a sexual nature.
- Take any concerns raised by employees seriously, investigate any complaint and take prompt and appropriate action.
- Regularly promote awareness of the policy and guidance to all staff to ensure staff understand that unacceptable behaviour can result in disciplinary action.
- Ensure employees are aware of their responsibility to treat colleagues with dignity and respect.
- Regularly review the effectiveness of the policy with employees and trade unions.

## Context

Experiencing sexual harassment can cause a loss of confidence at work and can cause someone to avoid work situations to avoid the perpetrator. This often diminishes their performance at work and their propensity to apply for and be appointed to promoted posts.

Staff experiences of sexual harassment are often minimised by colleagues and dismissed as 'banter'. This type of harassment includes any unwelcome verbal or physical behaviour that creates a hostile work environment. Sexual harassment is not limited to face-to-face interactions, but may also be experienced via email, text and online platforms.

The effects of sexual harassment can have a significant impact on morale and productivity. The impact of harassment can be significant, and may result in undesirable consequences such as:

- Significant detriment to mental health.
- Diminished performance at work.
- Loss of self-esteem and confidence, both in the workplace and in real-life.
- Feelings of embarrassment, shame, and humiliation.
- A sense of being undermined professionally.
- Avoiding certain work situations including meetings, training courses or shifts.
- Leaving a role or job.

## Procedure

### Employee Action

Employees who feel they are affected by sexual harassment must seek support and advice.

Employees may wish to seek informal advice from their Line Manager, Bullying and Harassment Contact, Trade Union Representative or a colleague. Where a concern is raised directly to a manager, this should be addressed promptly and informally where possible, and the relevant Service HR Business Partner should be informed.

[Bullying and Harassment \(B&H\) Contacts](#) have been trained to be an initial point of contact for anyone who feels they are a victim of sexual harassment or any other form of bullying and harassment. They will listen, offer reassurance and discuss incidents and allegations, outlining options and support available as appropriate in a confidential manner.

In addition, internal support can be sought from Line Managers and [HR](#). Alternatively, employees may prefer to discuss with a friend or colleague in the first instance for support before bringing it to their manager's or HR's attention.

Where possible, The Highland Council encourages employees to try to resolve any problems informally in the first instance, but this may not be appropriate in all cases.

## Informal Procedures

If a person believes they are being subjected to behaviour that constitutes sexual harassment, where possible and appropriate, those involved should attempt to resolve the situation informally in the first instance. However, this should not discourage use of the formal procedures where considered appropriate.

In certain circumstances it may be possible for the complaint to be resolved quickly by the employee explaining directly to the harasser the following:

- What behaviour they consider to be sexual harassment.
- The effect their behaviour is having.
- Asking them to stop.

The employee can make it clear that if the behaviour continues a formal complaint will be made.

Where possible the employee should keep a diary of all incidents including details of dates, times, any witnesses and how they were personally affected. Copies of any documents that may be relevant, for example reports, emails, notes of any meetings that relate to the issue should also be kept.

## Formal Procedures

Where it has not been possible to resolve the matter informally, the decision whether to progress a complaint rests with the individual employee.

Formal complaints of sexual harassment should be made in writing using the **Grievance Procedure** and addressed to one of the nominated B&H Senior Officers.

## Nominated Bullying and Harassment Senior Officers:

- Caroline Campbell (Head of Service – Community Operations & Logistics, C&P)  
[caroline.campbell@highland.gov.uk](mailto:caroline.campbell@highland.gov.uk)
- Colette Macklin (Head of Service – Primary & ELC, E&L)  
[colette.macklin@highland.gov.uk](mailto:colette.macklin@highland.gov.uk)
- Tracey Urry (Head of Service – Roads & Infrastructure, IE&E)  
[tracey.urry@highland.gov.uk](mailto:tracey.urry@highland.gov.uk)
- Fiona Malcolm (Head of Service – Integration (Adult Social Care), E&L)  
[fiona.malcolm@highland.gov.uk](mailto:fiona.malcolm@highland.gov.uk)
- Donna Sutherland (Strategic Lead – Corporate Audit & Performance, P&G)  
[donna.sutherland@highland.gov.uk](mailto:donna.sutherland@highland.gov.uk)

For those employees on Agenda for Change terms and conditions, the appropriate policy is NHS Scotland Bullying and Harassment Policy [Bullying and Harassment Policy Overview | NHS Scotland](#) and not the grievance procedure.

## Disciplinary Action

Instances of sexual harassment may lead to disciplinary action up to and including dismissal:

- In a work situation.
- During any situations related to work such as a social event with colleagues.
- Against a colleague or other person connected to the employer outside of a work situation, including social media.
- Against anyone outside of work where their behaviour calls into question their suitability to carry out their work role.

## Quick Links

The Hyperlinks listed here will redirect you to the related guidance, letters, information, and relevant organisations mentioned in this policy.

<b>Bullying and Harassment Policy</b>	<a href="#">Click Here</a>
<b>Equal Opportunities Policy</b>	<a href="#">Click Here</a>
<b>Traineasy &gt; Equality &amp; Diversity &gt; Sexual Harassment training</b>	<a href="#">Click Here</a>
<b>Equally Safe at Work – Line Managers Guidance on Sexual Harassment</b>	<a href="#">Click Here</a>
<b>Equality and Human Rights Commission - Sexual Harassment and Harassment at Work: Technical Guidance</b>	<a href="#">Click Here</a>
<b>ACAS – Sexual Harassment</b>	<a href="#">Click Here</a>
<b>Employee Assistance Programme</b>	<a href="#">Click Here</a>
<b>Grievance Policy</b>	<a href="#">Click Here</a>
<b>Bullying &amp; Harassment Contacts</b>	<a href="#">Click Here</a>
<b>Gender-Based Violence Policy will be added when ready</b>	<a href="#">Click Here</a>
<b>Abused Men in Scotland Helpline (AMIS)</b>	<a href="#">Click Here</a>
<b>LGBT Helpline Scotland</b>	<a href="#">Click Here</a>
<b>Rape Crisis Scotland Helpline</b>	<a href="#">Click Here</a>
<b>Domestic Abuse Helpline</b>	<a href="#">Click Here</a>
<b>Survivors UK Online Help (for men, boys &amp; non-binary people)</b>	<a href="#">Click Here</a>
<b>PIN POLICIES / NHSSCOTLAND WORKFORCE POLICIES</b>	<a href="#">Click Here</a>

