

Medway Council

Sexual Harassment Policy

Issued: Month/Year

Review Date: Month/Year

Responsible Officer: Samantha Beck-Farley, Chief Organisational Culture
Officer



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1.0 Introduction

- 1.1 Sexual harassment is unlawful.
- 1.2 By law, employers must take reasonable steps to prevent sexual harassment of their employees taking place. Medway Council is committed to providing a working environment where individuals are treated with fairness, dignity and respect and will take all employee complaints seriously. Everyone has a responsibility to create a culture where sexual harassment doesn't happen but challenges or report it when it does.
- 1.3 The Council takes a zero-tolerance stance against sexual harassment and claims of sexual harassment will be dealt with in accordance with our [Harassment Procedure]. This means that all claims of sexual harassment will be taken seriously, ensuring a fair and thorough process, but dismissal will only occur where appropriate.
- 1.4 Whilst challenging, employees are encouraged to come forward as soon as they feel able, so there is the best chance of investigating and resolving the situation.

2.0 Scope

- 2.1 This policy applies to all employees of the council, contractors, service users, and anyone engaged with Medway Council. However, this is not applicable to school-based staff. Elected officials fall under the Councillor Code of Conduct.

3.0 Equality Statement

- 3.1 The Council is committed to ensuring that no service user, employee, job applicant, those with care experience, partner, contractor, supplier or member of the public will be unlawfully discriminated, harassed or victimised on the grounds of race; ethnicity; nationality; ethnic or national origin; colour; disability; gender identity or presentation; marital or civil partnership status; maternity or pregnancy; family and caring responsibilities; sex; sexual orientation; age; HIV status; religion or belief; political beliefs; social class; trades union activity; or irrelevant spent convictions.

4.0 Core Values and Council Objectives

- 4.1 This policy supports the Council's Our Values and Behaviours. The Council believes that a consistent approach to employee management and wellbeing is fundamental to the delivery of quality services, one of the aims of the policy is to support this belief.

5.0 Definition of Sexual Harassment including the law

- 5.1 The Council's application of the term "sexual harassment" is informed by the Equality Act 2010, Employment Rights Bill, and EHRC guidelines.
 - 5.1.1 Sexual harassment is unlawful conduct under the Equality Act 2010, whether or not the perpetrator intended their conduct to be offensive.

5.1.2 Sexual harassment is when a person is subjected to unwanted conduct of a sexual nature which has the purpose or effect of either violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment.

This includes when a person is treated less favourably because they submitted to or rejected that unwanted conduct.

5.1.3 It's important to note that sexual conduct which has in the past been wanted can become unwanted and the person receiving the behaviour decides if it's unwanted; not the person doing it.

5.1.4 A person can be affected by sexual harassment even if the conduct is not aimed at them.

5.1.5 Sexual harassment can be a one-off incident or ongoing and takes many forms, for example, in writing, in person, on social media, in and outside of the workplace, including at social events

5.1.6 Anyone can be sexually harassed. Being a recipient of sexual harassment is not limited by sex, gender, or any other characteristic.

5.1.7 Unwanted conduct of a sexual nature can include, but is not limited to, the following examples:

- Comments or jokes of a sexual nature
- Display or circulation of pornographic or sexual imagery
- Suggestive looks, leering and wolf-whistling
- Sexual gestures
- Intrusive questions about a person's sex life or open discussion of one's own sex life
- Spreading sexual rumours about a person
- Posts, messages, emails, calls or other contact of a sexual nature
- Propositions or sexual advances
- The editing, either manually or using AI, of any content related to a person to transform it in a sexual nature
- Sexual assault, including unwelcome touching, hugging, massaging or kissing

5.1.8 The following examples do not constitute a valid defence against an allegation of sexual harassment:

- A lack of sexual intent or motivation by the perpetrator
- The absence of a spoken objection to the behaviour (e.g. They did not say "no")
- A one-off error in judgement
- Not being targeted at a specific person or people
- Being of the same sex or gender as the recipient
- The harassment being an instance of joking or "banter"

5.1.9 While unintentional, one-off, or joking, teasing or banter instances are still considered sexual harassment, such context will be considered throughout the process to

determine appropriate action, including during any upheld complaints to judge the appropriate level of disciplinary action.

5.1.10 Any instances of sexual harassment that are considered repeat offences or otherwise meet the level of gross misconduct, if upheld, will lead to summary dismissal in line with our [Harassment Procedure].

5.2 The different treatment of any person due to either a submission to, or rejection of, conduct of a sexual nature is considered unlawful victimisation and will be treated as gross misconduct. This also includes any protected acts, such as the reporting, potential to report, or assistance in reporting a case of sexual harassment.

5.3 Sexual harassment can occur in any work situation, such as in the office, on an external visit, at a work gathering or party, at a work event, and online. All reasonable steps should be taken to prevent occurrences of sexual harassment in all situations informed by a risk assessment.

5.4 The Council recognises that relationships at work are a normal part of adult life. Sexual interaction that is invited, mutual or consensual is not sexual harassment because it is not unwanted. However, standards of professional conduct must always be maintained in line with our [Employee Code of Conduct].

5.4.1 The conduct of a recipient of sexual harassment will not affect the outcome of a complaint under any circumstances. Risk mitigation provisions must be applied equally, fairly, and must never be used to dismiss claims of sexual harassment.

6.0 Third-Party Harassment

6.1 Third-party sexual harassment is when someone who a worker interacts with as part of their job who is not employed by the Council, such as a customer, client or supplier, commits sexual harassment. The Council has a responsibility to protect against instances of third-party harassment and maintains a zero-tolerance policy in these scenarios.

6.2 Third-party harassment should be reported to your manager in the first instance, who can then log the instance and take steps to mitigate repeat occurrences. If concerns continue, this should be escalated to the Head of Service.

7.0 Informal Resolution Process

7.1 Sometimes an informal approach may be enough to stop the harassment, especially where it is unintended, and the person is not aware of the effect of their behaviour.

However, in cases where the sexual harassment is too severe or there are other practical reasons why informal action is not practical, a formal complaint should be raised.

7.2 Informal resolution will usually include:

- Telling the person clearly that their behaviour was unacceptable and unwelcome
- Letting the perpetrator's manager know about the incident so their behaviour can be monitored
- At the direction of the manager, having the perpetrator complete sexual harassment training

Employees may feel able/comfortable to speak to the person responsible, explain how their actions are making them feel and ask them to stop. However, some employees may need support to do this or for their line manager, another manager, HR or someone else such as a Trade Union representative to speak to the alleged harasser on their behalf.

- 7.3 It can be very difficult to raise instances of sexual harassment, and we encourage recipients to report instances anonymously if they feel unable to do so otherwise via [HR Support/Consultants phone line]. This will enable HR to monitor the situation and detect any patterns of behaviour.

However, this should be done with the understanding that anonymous reports are more difficult to resolve by their nature due to limited information and limited options for addressing behaviours directly.

8.0 Formal Resolution Process

- 8.1 Where an informal resolution cannot be reached or informal action is not appropriate, formal complaints will be dealt with following our [Harassment Policy]. All information related to the complaint will be handled confidentially and sensitively, and anyone involved in the formal process will be informed of their responsibility to uphold this.
- 8.2 Formal complaints of sexual harassment will be prioritised where possible. No undue delay to any process will be caused by responsible parties.
- 8.3 Where a complaint of sexual harassment is upheld, the context, severity and number of occurrences will inform proportionate corrective action. Summary dismissal will not be automatic, however, appropriate protective measures will be implemented and closely monitored by HR to prevent any further occurrences.
- 8.4 Where a complaint of sexual harassment is not upheld, the person raising the complaint will not be subjected to any detriment related to their complaint, and this will be closely monitored by HR. Recommendations may be made for mediation or redeployment; the person who has raised the complaint will never be asked to move team as a result of their complaint.
- 8.5 Where a complaint of sexual harassment is not upheld, and during the investigation there is clear and compelling evidence that the complaint was knowingly false and/or malicious in intent, this will be subject to disciplinary action.
- 8.6 Any employee who is the recipient of sexual harassment will be granted reasonable time off for stress-related sickness, will receive full pay during their period of absence,

and will not be subject to absence triggers. This provision includes any subsequent professional support, such as counselling.

9.0 Witnesses of Sexual Harassment

- 9.1 Anyone who witnesses sexual harassment are encouraged to speak up and won't be treated unfavourably for speaking up.
- 9.2 Witnesses of perceived sexual harassment are encouraged to report this to HR for further monitoring. These reports will be handled sensitively and confidentially and may be used to inform further action.

10.0 Criminal Offence

- 10.1 Some acts of harassment may amount to a criminal offence. We will support employees if they wish to report a crime to the police. We won't pressure employees to make any decision but, in some situations, we may decide we have to tell the police for example if we believe there is an ongoing risk to employee's or others' safety. If we do report it, we will talk to the employees before we do and let them know when we have told the Police.

11.0 Risk Assessments

- 11.1 One of the primary preventative measures for sexual harassment defined by the Equality and Human Rights Commission is the use of risk assessments.
- 11.2 Risk assessments may include provisions for appropriate and protective conduct to mitigate the risk of sexual harassment. Such provisions may include guidance on:

- Guidance on dress in high-risk contexts with due regard to non-discrimination
- Consumption of alcohol
- Lone working in high-risk circumstances
- Contact with a colleague during external events
- Travelling for work and overnight stays

These provisions must be reasonable and applied consistently and fairly among all employees.

- 11.3 Due to the varying nature of services across the Council, risk assessments must be service-specific and maintained by the Head of Service. All relevant risk factors should be identified and mitigated.
- 11.4 To ensure their efficacy, risk assessments must be reviewed biannually. This includes engaging with staff to ensure that any new risks are added to the assessment and mitigations are implemented.

12.0 Responsibilities

- 12.1 Employees have a responsibility to:

- familiarise themselves with this policy
- act in accordance with the guidelines set out in this policy
- complete annual sexual harassment training
- report instances of sexual harassment if received or witnessed to HR
- report risks of sexual harassment to their manager
- ensure this policy is not used to pursue malicious complaints and to understand that to do so will be considered a disciplinary matter

12.2 Managers have a responsibility to:

- ensure employees are aware of this policy and have completed the relevant training
- have a live, up-to-date, and detailed risk assessment for sexual harassment
- explore all possible options to reduce or prevent risks identified
- encourage employees to be open about reporting instances of sexual harassment or perceived risks
- ensure there is an understanding and awareness of any neurodivergent colleagues and make reasonable adjustments to prevent accidental instances of sexual harassment
- handle information sensitively and confidentially where appropriate
- where sexual harassment occurs, direct employees to support resources

12.3 Human Resources have a responsibility to:

- monitor and log all reported cases of sexual harassment
- deal with all reported instances of sexual harassment swiftly and sensitively
- provide training on sexual harassment

12.4 For third-party interactions, everyone has the responsibility to:

- make clear at all interactions that sexual harassment will not be tolerated
- display clear signage of zero tolerance to sexual harassment in Council premises
- inform all visitors, including suppliers, contractors, and partners that sexual harassment will not be tolerated
- report and log any third-party sexual harassment, and implement further risk-mitigation strategies
- where applicable, refuse any further interaction with the perpetrator immediately
 - If on Council premises, have them escorted from the building
 - If on site, exit the area/premises immediately where it is safe to do so
- where the above is not applicable, implement preventative measures such as the assignment of a different officer
- report any unlawful interaction, such as sexual assault, to the police

13.0 Legal Framework (legislation that directly or indirectly affects the policy)

13.1 Equality Act 2010

13.2 Employment Rights Bill

13.3 Worker Protections (Amendment of Equality Act 2010) Act 2023

14.0 Monitoring of Policy Objectives/Aims/Effectiveness

14.1 Medway Council is committed to fostering a culture of respect and dignity and will actively review the impact of training, leadership behaviour and reporting rates to ensure continuous improvement.

15.0 Data Protection

15.1 Medway Council will manage records efficiently and systematically, consistent with the General Data Protection Regulation (GDPR), the Data Protection Act 2018 (DPA18) and the Lord Chancellor's Code of Practice on Records Management, supporting the business objectives of the Council and meeting legislative, regulatory, funding and ethical requirements.

Version history

Published (Name of Policy) v1.4 July 2024 (if updating policy then add details of previous version e.g. replacing V1.3 June 2022)

Author: (if new Author advise Name and Job Title)

Responsible officer: (If there has been a change please update)