



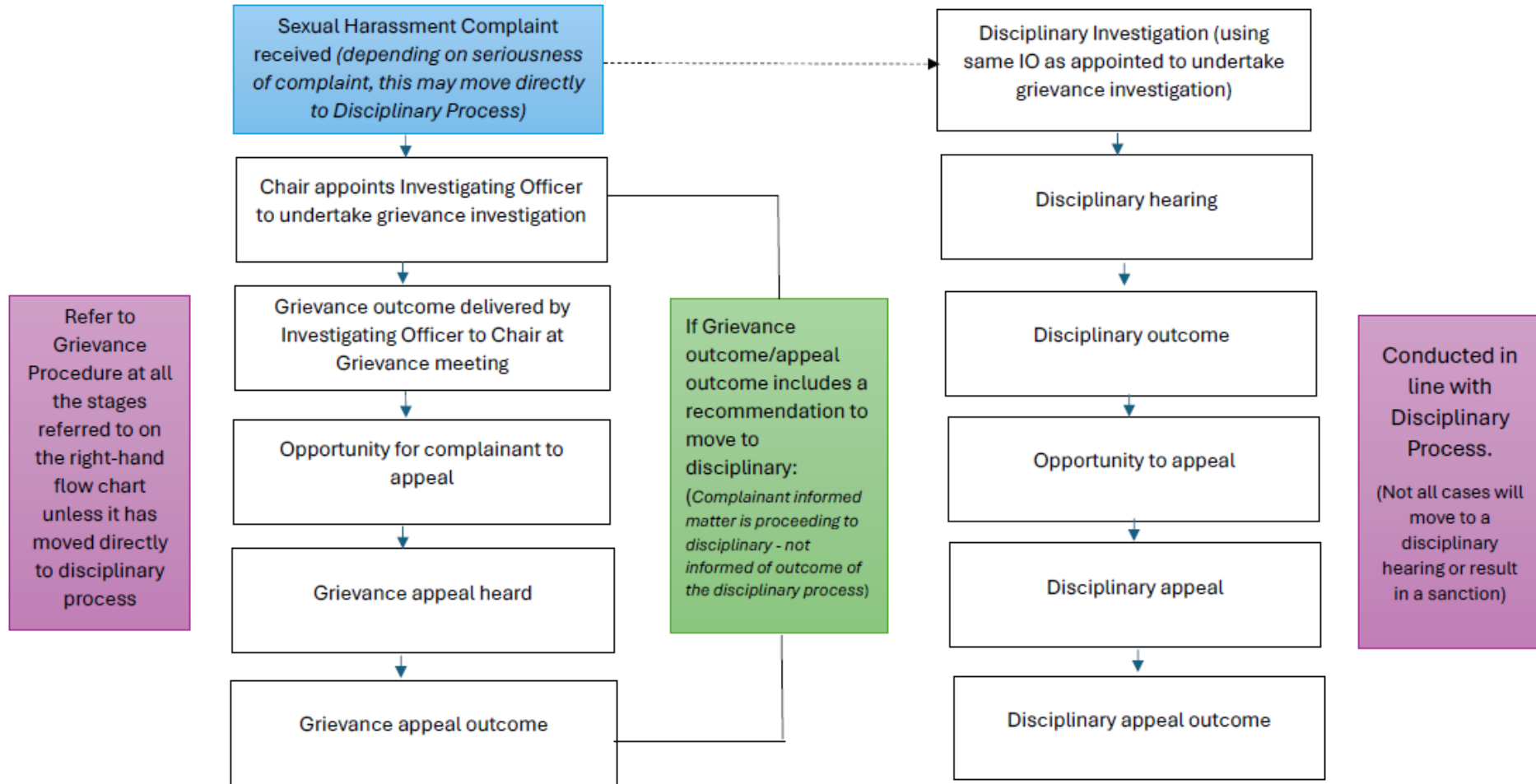
# Prevention of Sexual Harassment Procedure

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Review Date: 21<sup>st</sup> October 2024

# Summary

## FLOWCHART EXPLAINING SEXUAL HARASSMENT FORMAL COMPLAINT PROCESS



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## Rationale

The aim of the procedure is to provide a framework within which Aberdeenshire Council and all employees within it can work together in a co-operative manner to prevent sexual harassment in the workplace.

## Introduction

As an employer, Aberdeenshire Council have a positive legal duty to take reasonable steps to prevent sexual harassment of employees / workers in the course of their employment.

This legal duty is designed to transform workplace cultures by requiring Aberdeenshire Council to take positive and proactive reasonable steps to prevent sexual harassment of their employees. We should not wait until a complaint of sexual harassment has been raised before action is taken.

The duty requires that Aberdeenshire Council should anticipate scenarios when its employees may be subject to sexual harassment in the course of employment and take action to prevent such harassment taking place. However, if sexual harassment has taken place, the preventative duty means Aberdeenshire Council should take action to stop sexual harassment from happening again.

When dealing with reports of sexual harassment it is important to ensure employees are not at risk of harm. However, it's important to remember that in the interests of fairness and natural justice, everyone involved should be treated fairly and reasonably.

All reports should be taken seriously, as this type of behaviour is unlawful and can have serious effects on an employee. It requires to be dealt with promptly and as confidentially as possible. However, there may be instances where you need to disclose information to others, such as the police. This should be undertaken in consultation with the complainant and HR as far as possible.

Everyone within the Council has a legal duty to ensure sexual harassment does not happen in the workplace. As a Council we have a culture of zero tolerance and will not tolerate any form of sexual harassment (covered by the preventative legal duty above) or any other form of harassment.

## What is Sexual Harassment?

Under the Equality Act 2010, sexual harassment occurs when a person is subjected to unwanted conduct of a sexual nature that has the purpose or effect of:

- violating that person's dignity
- creating an intimidating, hostile, degrading, humiliating or offensive environment for that person and,
- the employee being treated less favourably because they submitted or rejected the unwanted conduct.

Sexual harassment is not always motivated by sexual interest; it can be used to humiliate or belittle people with the goal being to “put them in their place”, or to create entertainment for others.

Within any organisation, there will be a range of attitudes about what conduct is considered to be offensive, humiliating, intimidating, hostile, or degrading. What one employee – or even a majority of employees – might see as harmless fun or ‘banter’, another may find unacceptable. An employee complaining about conduct may be considered by others to be overly sensitive or prudish. However, it is important to understand that conduct can amount to sexual harassment even if that is not how it was intended. No form of harassment can ever be justified.

The scope of what constitutes sexual harassment in the workplace may be wider than you would expect, so it's important that all employees are aware of the actions that would be considered within sexual harassment.

A single incident can amount to sexual harassment and can include physical, verbal and non-verbal conduct and can be from someone of the same or a different sex. Examples of sexual harassment in the workplace include, but are not limited to:

- Physical violence, including sexual assault or rape
- Flirting or making sexual remarks
- Making promises in return for sexual favours
- Asking about someone's private or sex life, or discussing your own sex life
- Telling sexually offensive jokes, including about someone's sexual orientation or gender reassignment, innuendos, gestures or teasing
- Spreading sexual rumours about a person
- Displaying or sharing pornographic/sexual images or content
- Unwanted physical contact for example touching, pinching, pushing, grabbing, patting, stroking, massaging, hugging and kissing
- Suggestive looks, staring or leering
- Sexual gestures
- Sexual posts or contact on social media from another employee
- Sending sexually explicit emails or text messages
- Repeatedly asking someone out who has said no
- Comments on appearance

Sexual harassment is often considered a disciplinary offence and, in some cases, may also be a criminal offence.

If sexual harassment takes place in any situation connected with work, then this would be an extension of the workplace which would include, for example, sexual harassment that takes place at staff parties, client events or offsite training days. What's more, inappropriate messages between colleagues of a sexual nature could

also amount to sexual harassment in the workplace, even if it is done on personal devices and/or outside office hours.

Although women are more likely to experience sexual harassment, it can happen to anyone. Sexual harassment does not always occur in plain sight. Regardless of when and how it occurs, any sexual harassment involving employees should be considered a workplace issue.

## Sexual Harassment by Third Parties

The law requires Aberdeenshire Council to take reasonable steps to prevent sexual harassment by third parties. As previously mentioned, sexual harassment by a third party will not be tolerated and employees are encouraged to report this to their line manager in order that reasonable steps can be taken to ensure this type of behaviour does not happen again.

The line manager would then have responsibility to investigate and address this behaviour. Such steps may involve warning a customer / contractor / service user about their behaviours, the Service invoking appropriate processes with a customer / contractor / service user or reporting any criminal acts to the police.

## Reporting Sexual Harassment

The following steps provide guidance on how to deal with reports of sexual harassment and a [flowchart](#) is also available which gives more detail on the formal process.

There are different ways of reporting such as speaking to:

- your line manager
- a more senior manager
- your trade union representative
- through askHR ([askhr@aberdeenshire.gov.uk](mailto:askhr@aberdeenshire.gov.uk)) using specific wording 'ASK FOR ALI' in the Subject Line which will ensure confidentiality and quick access (working day) to an appropriate person

Any report of sexual harassment might be received in different ways. For example, the report may be received from a bystander who has witnessed sexual harassment, or managers may spot something. If the report does not come directly from the person being harassed (going forward we will call them Employee A), managers should confidentially speak to the person affected and ideally encourage them to report using the formal Grievance procedure.

In cases where individuals are reluctant to report despite encouragement, managers need to respect the wishes of the person making the complaint as far as possible but should contact their HR Advisor for further advice. It may not be possible to take no action if the harassment is so serious that there is a risk to Employee A or anyone else's safety.

Reporting sexual harassment takes bravery and can be extremely stressful and the [Employee Assistance Programme](#) should be offered to any employee involved in this, along with signposting to other external services along with ongoing support from the line manager.

**Please be aware that any complaint received will be dealt with seriously, sensitively, confidentially and promptly.**

In some cases, more immediate action may need to be taken, such as suspending or moving the alleged harasser (going forward we will call them Employee B). The line manager or other appropriate manager should seek advice from HR before taking any appropriate formal action. Care must be taken to ensure no action is taken that could be perceived as punishing the person raising the complaint.

### **Informal Option:**

In some cases, after receiving the complaint from Employee A, it may be appropriate to resolve the issue informally, depending on the seriousness of the complaint and whether Employee A wants to. Managers may want to speak to HR to get advice on whether it's appropriate to try and resolve informally. Whatever happens, Employee A should not be forced to confront the alleged harasser, nor to resolve the situation informally against their wishes.

If there is agreement from Employee A to try an informal approach, a facilitated meeting should be organised with both parties. Both parties may be accompanied. This meeting should be dealt with sensitively to try and reach an agreeable solution.



### **Formal Option:**

If it is felt that the informal step is not appropriate, or the informal option failed to find an appropriate resolution Employee A can raise a complaint using the appropriate [Grievance procedure](#). If Employee A is finding it difficult to complete the grievance the line manager or an appropriate person may help support them to complete this document.

It may be that due to the severity of the complaint and initial fact finding, it is felt that this should be taken directly to conduct using the [Disciplinary procedure](#). Again, the line manager should speak to a HR Advisor before taking this decision.

At all stages dependent on the severity / circumstances of the sexual harassment complaint, HR advice should be taken as this may potentially be criminal. Employee A should also be consulted with, as far as possible, if it is to be referred to the Police.

Employee A should be protected from further instances of sexual harassment or reprisal. Any action taken should not have a detrimental impact on them.

There should also be no presumption of guilt on the part of Employee B, until any formal process(es) is concluded, and they should also be treated fairly and given support where needed.

The investigation will be carried out thoroughly, impartially and objectively and will be dealt with sensitively and with due respect for the rights of all parties concerned. We recognise there may be circumstances where an individual may feel more comfortable discussing their complaint with an investigator of a particular sex due to the sensitivities of the case. We will endeavour to try and accommodate this where possible.

Both Employee A and Employee B should be kept informed of the process at all stages and how the grievance or disciplinary process is progressing. It should be noted that there may be issues of confidentiality where both Employee A and B cannot be informed of certain parts of the process.

The Council should continue to support Employee A and ensure that any people management policies such as performance management or appropriate time off, takes account of any impacts experienced because of the alleged harassment. Depending on the specific situation and the involvement and/or knowledge of the employee's line manager, HR also needs to ensure that the employee receives the ongoing support and understanding of their line manager.

## Managers' Responsibilities

### Behaviours

Managers should act as role models by consistently demonstrating respectful and inclusive behaviour. The following [link](#) explains the type of behaviours required along with information for managers regarding assessing any potential risks for their team.

All employees should be aware of how their actions may impact on others.

### Risk Assessments

It is essential that managers assess the risk of employees being exposed to sexual harassment as part of their normal risk assessment procedure. This should consider what steps can be taken to minimise those risks and prevent sexual harassment from taking place. More detailed information can be found at the following [link](#) to help support managers in what to consider and how to action this.

### Senior Leadership Team Responsibilities

The senior leadership team will take responsibility for preventing sexual harassment and embedding an inclusive and psychologically safe climate. This means monitoring anonymously any incidence of complaints, how they have been addressed and their outcome to understand the culture within the Council in relation to sexual harassment.

### Training

All managers must complete essential training through ALDO on what constitutes sexual harassment, how to spot and deal with potential sexual harassment behaviours as well as how to support employees who have been victims of, or witnessed, sexual harassment. This training is currently being created and you will be informed when it is available.

Employees will also have access to this training and managers must ensure that their team members are given appropriate access to the training and are aware of this new preventative duty and expected standards of behaviour and what constitutes sexual harassment.

## Important Points to Remember

To create a culture of zero tolerance, and ensure the prevention of sexual harassment, all employees require to understand:

- sexual harassment is against the law
- there is now a preventative legal duty regarding sexual harassment that Aberdeenshire Council has to adhere to
- there is a responsibility for all employees to be familiar with this procedure and any risk assessments relevant to their role along with undertaking appropriate training
- how they can report any sexual harassment
- that any employee affected by sexual harassment is encouraged to report this as soon as possible
- that if someone carries out sexual harassment, it may lead to them losing their job
- that any employee who makes a complaint that's not upheld will not face any disciplinary action, unless their complaint was made in bad faith (that is, without an honest truth in its belief)
- that Aberdeenshire Council will never cover up or ignore a sexual harassment complaint
- that Aberdeenshire Council will not tolerate misuse of power in workplace relationships, for example through seniority or influence
- failure to comply with the procedure and associated training, risk assessments could result in:
  - long term sickness absence of employees
  - employees becoming disengaged
  - the reputation of that team or Service area falling into disrepute
  - payment of compensation by Aberdeenshire Council and potentially other named parties (which could include individual employees)
  - enforcement action by the Equality and Human Rights Commission, Health and Safety Executive and potential civil claim

## Review

This procedure will be reviewed annually in order to ensure that any new legislation, updates or information taken from climate surveys can be included.

## Document Revision History

Document Revision History					
Rev No.	Rev Date	Summary of Changes	Reviewing Team	Reviewers	Next Review Year
001	21 Oct 2024	Creation of document	HR Operational	A Stratton	2025

Appendix One – The Resource Pack

Resource Pack

