
Report to: Clackmannanshire Council

Date of Meeting: 20 March 2025

Subject: HR Policies

Report by: Senior Manager (HR and Workforce Development)

1.0 Purpose

- 1.1. This paper invites Council to approve the new Sexual Harassment policy and procedure (attached at **Appendix A** of this report).

2.0 Recommendations

Council are asked to:

- 2.1. Challenge and comment as appropriate;
- 2.2. Agree that the policy and procedure are formally approved; and
- 2.3. Note the attached Equality/Fairer Scotland Impact Assessment (**Appendix B**).

3.0 Considerations

- 3.1. HR and Workforce Development continues, as part of its rolling programme, to review and update the Council's policies and procedures related to HR, H&S, OD and Payroll.
- 3.2. In order to ensure collaborative and partnership working the Council's policy group, which comprises TU colleagues, Management and HR, meet regularly to review and agree new/revised policies and procedures.
- 3.3. The new Sexual Harassment Procedure was developed as a consequence of the Worker Protection (Amendment of Equality Act 2010) Act 2023 which introduces a new duty on employers to take 'reasonable steps' to prevent sexual harassment of their employees in the course of their employment. This legislation came into effect in October 2024.
- 3.4. The purpose of the new procedure is to provide a mechanism by which issues of sexual harassment will be addressed quickly and as fairly as possible. The procedure gives some examples of what constitutes Sexual Harassment and spells out the roles and responsibilities of managers, employees and HR. It highlights what actions will be taken when issues arise and the supports that are available.

- 3.5. At Policy group, following robust discussions full agreement was reached on all aspects of the procedure. This has then been discussed and agreed for progression to Council through the Tripartite group meeting held on 4 December 2024.
- 3.6. This policy and procedure, in addition to aligning the Council with its legislative duties, contributes significantly to the Council's Violence against Women and Girls, and Equally Safe agendas, which ensures that women and girls should feel equally safe at home, *at work*, and in their community.
- 3.7. In order to support the role out of this policy a full communication plan has been developed, in addition to a new Clacks Academy online learning resource which will be rolled out on approval of the policy.

4.0 Sustainability Implications

- 4.1. None.

5.0 Resource Implications

5.1. *Financial Details*

- 5.2. The full financial implications of the recommendations are set out in the report. This includes a reference to full life cycle costs where appropriate. Yes

- 5.3. Finance have been consulted and have agreed the financial implications as set out in the report. Yes

5.4. *Staffing*

- 5.5 Trade Unions have been consulted in the development of the policy and procedure.

6.0 Exempt Reports

- 6.1. Is this report exempt? Yes (please detail the reasons for exemption below) No

7.0 Declarations

The recommendations contained within this report support or implement our Corporate Priorities and Council Policies.

(1) **Our Priorities**

- Clackmannanshire will be attractive to businesses & people and ensure fair opportunities for all
- Our families; children and young people will have the best possible

start in life

Women and girls will be confident and aspirational, and achieve their full potential

Our communities will be resilient and empowered so that they can thrive and flourish

(2) **Council Policies**

Complies with relevant Council Policies

8.0 Equalities Impact

8.1 Have you undertaken the required equalities impact assessment to ensure that no groups are adversely affected by the recommendations?

Yes No

9.0 Legality

9.1 It has been confirmed that in adopting the recommendations contained in this report, the Council is acting within its legal powers. Yes

10.0 Appendices

10.1 Please list any appendices attached to this report. If there are no appendices, please state "none".

Appendix A – Sexual Harassment Policy and Procedure

Appendix B – Sexual Harassment EQIA

11.0 Background Papers

11.1 Have you used other documents to compile your report? (All documents must be kept available by the author for public inspection for four years from the date of meeting at which the report is considered)

Yes (please list the documents below) No

Author(s)

NAME	DESIGNATION	TEL NO / EXTENSION
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Approved by

NAME	DESIGNATION	SIGNATURE
Chris Alliston	Strategic Director, Partnership and Performance	



Sexual Harassment Policy and Procedure

2025



1. INTRODUCTION

- 1.1 The Worker Protection (Amendment of Equality Act 2010) Act 2023 introduces a new duty on employers to take 'reasonable steps' to prevent sexual harassment of their employees in the course of their employment. It comes into effect in October 2024.
- 1.2 The Council recognises that all employees should be treated fairly and with respect and as such the purpose of this procedure is to provide a mechanism by which issues of sexual harassment will be addressed quickly and fairly as possible.
- 1.3 The Council aims to develop a culture in which unacceptable behaviour is not tolerated, and that people feel confident in bringing forward complaints of sexual harassment without fear of reprisal.
- 1.4 This Policy/ Procedure should be read, where relevant, in conjunction with the Council's Policies and Procedures on Disciplinary; Grievance; Dignity at Work; Equality, Diversity & Inclusion and the National Code of Conduct, all of which can be found on Connect.

2. SCOPE

- 2.1 This policy applies to all employees, officers, consultants, contractors, casual workers and agency workers, i.e. any individual working for us. However, there are certain aspects of this procedure that are different for employees as opposed to other workers – these are highlighted.
- 2.2 This covers behaviours both in and out-with the workplace, including work related events and social functions.
- 2.3 Claims of unacceptable behaviour of a sexual nature will be taken seriously and all staff will be supported when raising concerns. Any instances of unacceptable behaviour which fall within the scope of the procedure will be dealt with in line with the Council's Disciplinary procedures and may be regarded as gross misconduct, which could lead to dismissal.

3. WHAT IS SEXUAL HARASSMENT?

- 3.1 Sexual harassment is unwelcome sexual advances and/or comments, requests for sexual favours or other unwanted behaviour which is of a sexual nature, which results in the individual feeling intimidated, degraded, humiliated, threatened or offended. It includes the following:

- Non-verbal sexual harassment - such as offensive gestures, jokes or banter of a sexual nature (even if not directed at a particular person), staring/leering, sexually explicit materials or offensive publications, computer pornography, unsolicited/unwanted gifts.
- Verbal sexual harassment - such as suggestive/explicit language (including by email or on social media), unwanted propositions, sexually explicit or suggestive jokes, “pet” names, personal or invasive comments or questions, cat calls, whistling, patronising or derogatory comments.
- Physical sexual harassment such as deliberate body contact (brushing against another’s body, pinching or touching) indecent exposure, groping, fondling, sexual assault.

3.2 Sexual harassment can be carried out by men and women, can be against the same or opposite sex or of any gender identity. Both men and women can be victims of sexual harassment. Discriminatory harassment can also occur if someone is subjected to unwanted conduct related to their sex or sexual orientation.

3.3 Sexual interaction that is invited, mutual or consensual is not sexual harassment because it is not ‘unwanted’.

3.4 A one-off incident can amount to sexual harassment.

3.5 Sexual harassment can occur regardless of whether the harasser intends to cause offence or not.

3.6 In cases where there was no intention to offend, in deciding whether there has been sexual harassment, investigating officers will take into account:

- The alleged victim’s perception;
- Whether it is reasonable for the conduct to have the alleged effect; and
- Any other relevant circumstances

4 PRINCIPLES

4.1 Employees and workers are expected to take appropriate action if they become aware of any act of sexual harassment, bringing the incident to the attention of management, Human Resources or a Trade Union representative.

4.2 Employees can bring concerns to their Line Manager, HR or Trade Union representative who will offer guidance, and support them throughout this process.

4.3 When an employee or worker makes a complaint against another employee or worker, the complaint should be specific and not general.

4.4 All complaints will be dealt with in a confidential, sensitive and objective manner and all parties involved will be treated with due respect, protected from victimisation and have the right to an impartial investigation. The

processes for dealing with sexual harassment allegations made against employees are the Council's Grievance Policy and Procedure and/or Disciplinary Policy and Procedure, as appropriate.

- 4.5 If a complaint is upheld or upheld in part, appropriate remedial action will be taken.
- 4.6 Following investigation, complaints that are proven to be malicious will be viewed as a potential disciplinary offence and appropriate action may be taken against the complainant in accordance with the Disciplinary Procedure.
- 4.7 It will be considered a disciplinary offence for any employee to victimise or retaliate against an employee for bringing a complaint of sexual harassment.

5 ROLES AND RESPONSIBILITIES

- 5.1 Managers and Supervisors: Have a responsibility for:
- promoting a positive work culture by setting an example of appropriate conduct and behaviour
 - familiarising themselves with, and understanding this procedure
 - implementing this procedure and ensuring employees and other workers have read, understood it and are aware of the standards of behaviour expected of them
 - responding quickly and effectively to any complaint of alleged harassment
 - supporting staff who tell them they have been sexually harassed (this may include supporting them to report the matter to the Police)
 - supporting staff who have been accused of sexual harassment
 - looking out for potential signs and symptoms from victims of sexual harassment. This may include them taking increased time off work, a refusal to work with certain colleagues, a change in behaviour or more requests to work from home.
- 5.2 Employees: Have a responsibility for:
- ensuring that they do not act in any way that could cause offence to another colleague or worker
 - supporting colleagues who may be subjected to sexual harassment, including providing information to assist with an investigation, or being called as a witness
 - being aware that views of personal space and what is acceptable will differ between individuals
 - being aware that a breach of this procedure will be investigated under the Council's Disciplinary Policy and Procedure.
- 5.3 HR and Workforce Development: Have a responsibility for:
- ensuring employees are aware of the support mechanisms available to them if they have reason to make a complaint, or are the subject of a complaint, of sexual harassment
 - supporting managers to ensure they have the confidence and capability to deal with issues of sexual harassment

- provision of awareness training to managers and others as required.

6. HEALTH ISSUES ARISING DURING THE SEXUAL HARASSMENT PROCESS

6.1 Where an employee raises health issues during the process, consideration should be given for referral to Occupational Health for advice and guidance. There is not necessarily a need to delay the process, but each case must be assessed individually, with regard to the type and seriousness of the health issues.

7. REPRESENTATION

7.1 Employees have a right to be accompanied by a companion at every stage in this process including informal stages.

7.2 The chosen companion may be a trade union representative, a fellow Council worker or an official employed by a trade union. A trade union official who is not an employed official must have been certified by their union as being competent to accompany a worker.

7.3 It would not be reasonable for workers to insist on being accompanied by anyone whose presence would prejudice the case, e.g. a potential witness.

8. INFORMAL RESOLUTION

8.1 Early resolution of issues are key to prevent escalation or proceeding to formal stages. Individuals should try to resolve the issue in the first instance by:

8.2 Speaking with the alleged harasser – individuals may not realise their behaviours are causing offence to other people, therefore it may be that by making the individual aware of their behaviour can put an end to the issue and prevent the situation escalating.

8.3 Mediation - conflict resolution between individual employees facilitated by an independent internal trained mediator. It allows the individuals concerned an opportunity to explore issues of conflict with the aim of reaching a mutually agreeable solution. It can be used at any stage in the process. All parties must agree, in order for mediation to proceed. If an employee elects to undertake mediation, this does not stop them progressing their complaint more formally if the unacceptable conduct continues.

8.4 Line manager / management support – if the individual feels they can deal with the complaint but does not want to speak to the other individual alone, they can seek support from their line manager. The line manager, if they feel able to, should meet with the individual raising the concern in the first instance and

following this, meet with other party separately. Thereafter it may be appropriate to bring the individuals together to hold a facilitated discussion to informally resolve the matter. Following this, recommendations could be put in place i.e. arranging support as above e.g. mediation, training, clearer explanation of roles etc. to allow the parties to move forward and work together.

- 8.5 Where a line manager does not feel able to meet with the individual they should contact their service HR Business Partner for advice.
- 8.6 Support will be offered to all parties involved as contained within this procedure.
- 8.7 Points of action and agreement made may be noted.
- 8.8 If the situation cannot be resolved informally, or is sufficiently serious, it may be more appropriate to initiate a formal Sexual Harassment Complaint which, for employees means using the Council's grievance procedure (* see process below for workers who are not employed by the Council.)
- 8.9 An employee may choose to have their complaint heard formally in the first instance, although every opportunity will be given to seek informal resolution.
- 8.10 An employee may, at any stage, withdraw their complaint by giving notice of his/her intention to do so. This must be done in writing and in such circumstances the employee will be deemed to have abandoned the complaint. However, in certain circumstances, where there are sufficient grounds for concern, it may be appropriate to advise the employee that the matter originally complained of will still be investigated or monitored for a period of time, as the Council have a duty of care to all individuals.

9. FORMAL PROCESS

- 9.1 Where an employee wishes to raise a formal complaint under the Sexual Harassment Procedure, they should follow the formal stages as set out in the Council's Grievance Procedure.
- 9.2 Workers who are not employees of the Council, who wish to make a formal complaint under the Sexual Harassment Procedure, should submit it in writing to the Senior Manager – HR and Workforce Development. An appropriate Senior Manager will be appointed to review the complaint and set out a response in writing. There is no requirement to have a hearing and no right of appeal.
- 9.3 Where the alleged harasser does not work for us it will not usually be appropriate to invite the individual to an investigatory meeting.
- 9.4 All formal complaints should be in writing, be as full as possible and set out the following details:

- The name of the employee/worker the complaint relates to
- The nature of the alleged incident
- Where and when the alleged incident took place
- The names of any relevant witnesses
- Details of any actions taken to try to resolve the issue.

10. WORKING ARRANGEMENT DURING THE INVESTIGATION INTO ISSUES RAISED UNDER THIS PROCEDURE

- 10.1 A change of work arrangements or location for anyone involved in the process should only be considered in circumstances where it is considered impossible for parties involved to work together during the process.
- 10.2 In determining what alternative work arrangements are to be put in place, the manager must take into account the circumstances and particular sensitivities of each case. Where possible, first consideration should be given to alternative work arrangements for the individual whose alleged behaviour the complaint has been made.
- 10.3 If alternative work arrangements are put in place for anyone it should be made clear that this action in no way presupposes responsibility for the issue or concern, or prejudices the outcome of the process.
- 10.4 The period of alternative work arrangements should be as brief as possible and reviewed after 3 months if the process has not concluded.
- 10.5 When an individual is away from their normal place of work, a manager will be nominated as their point of contact during this period.

11. SUSPENSION

- 11.1 If an employee is accused of sexual harassment, it may be necessary to suspend them from work whilst the complaint is investigated. Suspension of this kind is not a disciplinary penalty and doesn't imply that a decision has been made about the allegations. The provisions set out in our Disciplinary Procedures regarding suspension will apply in this situation
- 11.2 If the alleged harasser is not our employee, or suspension is inappropriate, other temporary changes to working arrangements may be considered during an investigation.

12. CRIMINAL ALLEGATIONS

- 12.1 If a member of staff has been a victim of physical assault or any other crime, they should contact the police immediately.

12.2 If a complaint under this policy is also the subject of a criminal investigation or proceedings, the Council will not usually put the processes on hold pending the outcome of those. We will be guided by the Police in this.

12.3 If the staff member is unable, or has been advised not to, attend a meeting or say anything about a pending criminal matter, a decision may be made based on the available evidence.

13. EMPLOYEE SUPPORT

13.1 There are a number of options available to employees in terms of support during the Sexual Harassment process including 24-hour Confidential Counselling support via PAM Assist (Employee Assistance Programme), Occupational Health referral, signposting to Mental Health helplines, Mediation Service, and Stress Control workshops etc.

13.2 If further information is required on these support measures, it can be found either on Connect or by contacting the relevant Service HR Business Partner.

13.3 It should be noted that Trade Union representatives, Line Managers and Human Resources staff can also offer support and advice to both parties, both during and after the process.

14. MONITORING AND REVIEW

14.1 Strategic Directors and Senior Managers are responsible for monitoring the progress of sexual harassment cases within their service area, on an ongoing basis.

14.2 Both HR and Trade Union representatives shall also monitor the effectiveness of the procedure on an ongoing basis. Changes may result from employee, management and union feedback and/or changes in employment legislation. Revisions and updates will be implemented by the Council following consultation with recognised Trade Unions.

15. EQUALITY IMPACT ASSESSMENT

Policy Name	
Department	HR&WFD
Policy Lead	HR*WFD
Equality Impact Assessment	

Clackmannanshire Council
Sexual Harassment Policy and Procedure

Full EQIA required	Yes <input checked="" type="checkbox"/>
	No* <input type="checkbox"/>
* In no please provide rationale	
Date Full EQIA complete	
Date Approved	
Review Date	



Equality and Fairer Scotland Impact Assessment - Screening

Title of Policy:	Sexual Harassment Policy and Procedure
Service:	Partnership & Performance
Team:	HR

Will the policy have to go to Council or committee for approval	Yes
Is it a major policy, significantly affecting how functions are delivered?	No
Does it relate to functions that previous involvement activities have identified as being important to particular protected groups?	No
Does it relate to an area where the Council has set equality outcomes?	No
Does it relate to an area where there are known inequalities?	Yes
Does it relate to a policy where there is significant potential for reducing inequalities or improving outcomes?	No

IF YES TO ANY - Move on to an Equality & Fairer Scotland Assessment

IF NO - Explain why an Equality & Fairer Scotland Assessment is not required

APPROVAL		
NAME	DESIGNATION	DATE
Dawn Goodwin	HR Business Partner	25.2.25

NB This screening exercise is not to be treated as an assessment of impact and therefore does not need to be published. However, if you decide not to assess the impact of any policy, you will have to be able to explain your decision. To do this, you should keep a full record of how you reached your decision.

Equality and Fairer Scotland Impact Assessment - Scoping

<p>Purpose of the proposed policy or changes to established policy</p>
<p>This Procedure has been developed to ensure compliance with The Worker Protection (Amendment of Equality Act 2010) Act 2023 which introduces a new duty on employers to take 'reasonable steps' to prevent sexual harassment of their employees in the course of their employment. It comes into effect in October 2024. The aim of this procedure is to make employees and workers aware of the standards of behaviour expected from them. It aims to provide a clear framework which will ensure that complaints of unacceptable behaviour are dealt with promptly and fairly.</p> <p>The procedure aims to assist in developing and maintaining a working environment in which sexual harassment is unacceptable.</p>
<p>Which aspects of the policy are particularly relevant to each element of the Council's responsibilities in relation to the General Equality Duty and the Fairer Scotland Duty?</p>
<p>General Equality Duty -</p>
<p>➤ Eliminating unlawful discrimination, harassment and victimisation and other prohibited conduct</p>
<p>The provision of the new Sexual Harassment procedure should assist with the prevention of sexual harassment for employees and workers and provide a mechanism to support them should they feel they are being discriminated, victimised or harassed.</p>
<p>➤ Advancing equality of opportunity between people who share a relevant protected characteristic and those who do not</p>
<p>Having due regard for advancing equality involves removing or minimising disadvantages suffered by people due to protected characteristics.</p> <p>The procedure sets out a clear process to ensure that individuals can raise concerns should they feel disadvantaged. It ensures all employees whether within a protected group or not have a mechanism to raise concerns, although it is recognised that such a procedure could minimise disadvantage for staff members in protected groups.</p>
<p>➤ Fostering good relations between people who share a protected characteristic and those who do not.</p>

Fairer Scotland Duty -**➤ Reducing inequalities of outcome caused by socioeconomic disadvantage**

This procedure could assist with the retention of staff if they can see that the organisation ensures employees are treated in a fair and consistent way and can raise concerns regarding being treated with a lack of dignity and respect.

To which of the equality groups is the policy relevant?

Protected Characteristic	Yes/No*	Explanation
Age	No	
Disability	No	
Gender Reassignment	Yes	This characteristic is as relevant as the others in terms of individuals could raise any concerns through the Sexual Harassment Procedure.
Marriage and civil partnership	Yes	This characteristic is as relevant as the others in terms of individuals could raise any concerns through the Sexual Harassment Procedure.
Pregnancy and Maternity	Yes	Employees as with other protected characteristics can raise any concerns they have in relation to pregnancy/maternity through the sexual harassment procedure should they not feel they are being treated with dignity and respect.
Race	No	
Religion and Belief	No	

Sex	Yes	Research conducted by the Trades Union Congress in 2023 found that 3 in 5 women had experienced sexual harassment, bullying or verbal abuse at work – rising to almost two thirds of women aged between 25 and 34. This Procedure should provide a mechanism to provide awareness and minimise issues raised in relation to sexual harassment.
Sexual Orientation	Yes	This characteristic is as relevant as the others in terms of individuals could raise any concerns through the Sexual Harassment Procedure.

* Delete as required

What evidence is already available about the needs of relevant groups, and where are the gaps in evidence?

See above statistics.

Which equality groups and communities might it be helpful to involve in the development of the policy?

The procedure has been developed in consultation with recognised trade unions, along with elected manager representatives will be involved in the review of the draft policy and procedure at policy group. Discussion will take place at policy group on the content of the procedure and suggested amendments/additions will be agreed collectively.

Next steps

The council will take steps to ensure that this procedure is understood and applied fairly by managers. Briefing sessions and e-learning will be available to managers. In addition, advice, guidance and support will be provided from Service HR Business Partners on the application of the procedure.

Equality and Fairer Scotland Impact Assessment - Decision

Evidence findings		
<p>The evidence highlights that the introduction of this policy/procedure may have a positive impact on protected groups</p> <p>There are no evidence findings to suggest that any of the protected characteristics more than others is the reason for Sexual Harassment complaints being raised.</p> <p>This new procedure however ensures there is a more comprehensive approach to raising sexual harassment concerns and the council ensuring these are dealt with in a fair and consistent way. The overall commitment to support employees should assist the Council in demonstrating that it has paid due regard to the General Equality Duty</p>		
Details of engagement undertaken and feedback received		
<p>This Procedure has been developed in consultation with recognised trade unions who, along with Council Management, form the Council's Policy Group. In addition the procedure will be considered by Tripartite (Elected Members, Unions and Management) It will also be reviewed, and hopefully formally adopted, by the Partnership and Performance Committee on behalf of the Council.</p>		
Decision/recommendation		
<p>Having considered the potential or actual impacts of this policy, the following decision/recommendation is made:</p>		
Tick	Option 1: No major change	
✓	<p>The assessment demonstrates that the policy is robust. The evidence shows no potential for unlawful discrimination and that all opportunities have been taken to advance equality of opportunity and foster good relations, subject to continuing monitoring and review.</p>	
	<p>Option 2: Adjust the policy – this involves taking steps to remove any barriers, to better advance equality or to foster good relations. It may be possible to remove or change the aspect of the policy that creates any negative or unwanted impact, or to introduce additional measures to reduce or mitigate any potential negative impact.</p>	
	<p>Option 3: Continue the policy – this means adopting or continuing with the policy, despite the potential for adverse impact. The justification should clearly set out how this decision is compatible with the Council's obligations under the duty.</p>	
	<p>Option 4: Stop and remove the policy – if there are adverse effects that are not justified and cannot be mitigated, consideration should be given to stopping the policy altogether. If a policy leads to unlawful discrimination it should be removed or changed.</p>	
Justification for decision		
<p>This assessment finds no indication that the procedure will unlawfully discriminate against protected groups, and that a systematic approach has been taken to ensure that the procedure does not discriminate and takes into account the diverse needs and circumstances of individuals. Steps to monitor the equality impact have been agreed, along with practical to promote fair use.</p>		
APPROVAL		
NAME	DESIGNATION	DATE