



Downham Market Town Council

Sexual Harassment Policy

Date of Adoption: 4/3/25
Date of Review: March 2028

Downham Market Town Council believes that sexual harassment is unacceptable, undermines the dignity of an individual, is morally wrong, unlawful and has a detrimental impact on individuals, on the workplace and for the organisation.

Downham Market Town Council is committed to promoting an environment free from all forms of sexual harassment and recognise that it is responsible for protecting all employees, Councillors and volunteers from sexual harassment.

Downham Market Town Council recognises that sexual harassment is a manifestation of power relationships and often occurs within unequal relationships in the workplace, for example between manager or supervisor and employee.

Any instances of sexual harassment, including those carried out by councillors, clients, customers, casual workers and volunteers, contractors or visitors, as well as employees of Downham Market Town Council will be dealt with in accordance with this internal policy.

1. What is sexual harassment?

- **Sexual harassment** is unlawful. It 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 whether the perpetrator intended this or not.
- Sexual harassment can still be unlawful even if a person may not have intended their conduct to be offensive.

1.1.3 Unwanted conduct of a sexual nature covers a range of behaviours and can include:

- sexual comments or jokes
- the display or circulation of pornography
- displaying sexually graphic pictures, posters or photos
- suggestive looks, staring or leering
- propositions and sexual advances
- requests or demands 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
- sexual assault including unwelcome touching, hugging, massaging or kissing.

1.1.4 The conduct does not need to be sexually motivated, only sexual in nature.

1.1.5 It is not necessary for someone to object first before conduct can be described as unwanted.

1.1.6 The conduct does not need to be a 'pattern of behaviour' under employment case law (although there is separate criminal legislation, the Protection from Harassment Act 1997 which does require a "course of conduct"). A series of incidents which taken separately may seem trivial, can together constitute sexual harassment. Equally, one isolated incident can be sexual harassment.

1.1.7 The conduct does not have to be specifically targeted at an individual to amount to sexual harassment. Sexual harassment is not always obvious, repeated or continuous, it can be a one-off incident.

- Conduct that is directed at one person may constitute sexual harassment of another person because of the environment it creates.
- Some forms of sexual harassment are also criminal offences, for example behaviour that would be called exposure, sexual assault or rape. They are still disciplinary offences as well and are dealt with under this policy whether or not someone also reports them to police.
- It is also unlawful to treat a worker worse because of sexual harassment that happened to them.
- Victimisation is also unlawful under the Equality Act 2010. It is defined as treating a worker badly because they have reported sexual harassment at work, it is believed they will report a case of sexual harassment in the future, or they have helped someone else to report a case of sexual harassment.

1.2.1 There is no time limit on when a worker can experience victimisation, providing that the worker is subject to bad treatment as a result of the case involving sexual harassment and not some other reason.

In the context of these definitions Downham Market Town Council recognises that:

1. Anyone can experience sexual harassment, and an individual can experience sexual harassment from someone of the same sex or a different sex.
2. Sexism at work often goes hand in hand with sexual harassment. Where there has been harassment related to sex, but the harassment is not sexual in nature, action should be taken under the Bullying and Harassment policy and the relevant disciplinary/grievance procedures.
3. Sexual harassment can *at the same time* be harassment related to a protected characteristic in which case it is covered under this policy.
4. This policy focuses explicitly on sexual harassment and victimisation. An individual can be sexually harassed and also experience unlawful harassment related to one or more of the protected characteristics in the Equality Act 2010, which are:
 - Sex: both men and women are protected under the Act.
 - Race: for the purposes of the Act ‘race’ includes colour, nationality and ethnic or national origins.
 - Disability: under the Act a person is disabled if they have a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day to day activities.
 - Sexual orientation: the Act protects bisexual, gay, heterosexual and lesbian people.
 - Age: the Act protects people of all ages.
 - Religion or belief: the Act covers all religion and also includes lack of religion. Belief means any religious or philosophical belief or a lack of such belief.
 - Gender reassignment: the Act provides protection for trans people. The legal protection in the Equality Act covers anyone who “intends to undergo, is undergoing or has undergone gender reassignment”, including people preparing for medical treatment. It is important to remember that gender reassignment means “a personal process” of moving away from one’s sex at birth to the preferred gender. It is not to do with undergoing a surgical process, which many trans people choose not to undertake, nor does it require a person to have received medical treatment, including hormone treatment.
 - Marriage and civil partnership: the Act protects employees who are married or in civil partnership. Single people are not protected.

- **Pregnancy and maternity:** the Act protects a woman on the grounds of pregnancy and maternity during the period of her pregnancy and any statutory maternity leave to which she is entitled.

1.3.3 These forms of unlawful harassment and victimisation are dealt with in the Downham Market Town Council Bullying and Harassment Policy.

1.3.4 Sexual harassment and victimisation can happen in a work situation, during any situation related to work such as at a social event or site visit, and on social media or any online communication.

1.3.5 Sexual harassment and victimisation can be perpetrated by other workers and third parties. Third party harassment can result in legal liability for an employer. Third party means someone who a worker interacts with as part of their job but who is not employed by the same employer as them, for example a customer, member of the public or councillor. Downham Market Town Council does not tolerate sexual harassment by a third party, encourages workers who experience it to report it and takes responsibility for protecting workers from sexual harassment and victimisation perpetrated by third parties.

1.3.6 Sexual harassment is a manifestation of power relationships including imbalances based on gender in the workplace and in everyday life. While women are most often the targets and men are most often the perpetrators, this is not always the case. Sexual harassment often occurs within unequal relationships in the workplace, for example between manager or supervisor and employee. These power imbalances will be taken into account when deciding what disciplinary action is taken.

1.3.7 The act does not have to be directed at someone for them to experience sexual harassment.

1.3.9 Sexual interaction that is invited, mutual or consensual is not sexual harassment because it is not unwanted. However, sexual conduct that has been welcomed in the past can become unwanted.

2. How can sexual harassment be prevented?

Under the Equality Act 2010 employers are liable for harassment or victimisation committed by its workers unless they can show that they took all reasonable steps to prevent such behaviour.

Downham Market Town Council recognises that whilst there is no prescribed minimum on what an employer can do to prevent sexual harassment at work, there are multiple measures that can help prevent all types of sexual harassment, including but not limited to:

1. Training for all workers, on prevention, culture and reporting procedures in relation to sexual harassment. All members of staff should know what to do if they experience sexual harassment and how to handle complaints of harassment, including formal and informal reporting routes and how to intervene if they experience or witness sexual harassment.

The Town Clerk, Deputy Town Clerk and members of the Human Resources Committee will be trained in implementing this policy and how to respond sensitively to any reports of sexual harassment.

2. Undertaking risk assessments for sexual harassment as with any health and safety issue. Assessments identify the risks and the control measures necessary to minimise them. Factors may include, for example, power imbalances, job insecurity, lone working, the presence of alcohol, public-facing roles, lack of diversity in the workforce and workers being placed on secondment or at events.
3. Ensuring a zero-tolerance attitude to sexual harassment is clearly communicated to all workers and any third parties, in internal as well as external facing communications for example:
 - a) In all worker inductions and employment contracts.
 - b) Through regular mandatory anti-sexual harassment training for all workers.
4. Communicating what steps will be taken to remedy a report of sexual harassment and prevent it happening again. For example, warning a colleague about their behaviour, banning a worker from attending events, reporting any criminal acts to the police, or sharing information with other branches of the business. These steps will be communicated in internal and external facing communications.

3. Roles and responsibilities

3.1 Duties of employers

Employers have a legal duty to provide a safe working environment and ensure swift and effective action in recording and responding to a report of sexual harassment. Failure to do so can result in legal liability for any sexual harassment that occurs.

1. Ensure workers have access to confidential support and advice services during work hours and outside of them. The Town Clerk or Deputy Town Clerk are responsible for receiving reports of Sexual Harassment. The Chair of Human Resources may be referred to as an alternative.
2. Establish effective recording and reporting mechanisms, there should be formal and informal reporting routes.
3. Ensure those who are approached with a report of sexual harassment know how to respond and record information. When a designated person receives a report of sexual harassment, they will:
 - immediately record the dates, times and facts of the incident(s)
 - ascertain the views of the victim as to what outcome they want
 - ensure that the victim understands the Council's procedures for dealing with the complaint
 - discuss and agree the next steps: either informal or formal complaint, on the understanding that choosing to resolve the matter informally does not preclude the victim from pursuing a formal complaint if they are not satisfied with the outcome
 - keep a confidential record of all discussions
 - respect the choice of the victim
 - ensure that the victim knows that they can lodge the complaint outside of the Council through the relevant country/legal framework

3.1.4 Throughout the complaint procedure, a victim is entitled to be supported by a member of staff. This role is distinct and separate to the practical support offered by a trade union representative, although it could be a trade union representative has received this training and is the nominated individual in the workplace. Downham Market Town Council will offer specialist training to staff who wish to volunteer to assist victims of sexual harassment. Downham Market Town Council recognises that because sexual harassment often occurs in unequal relationships within the workplace, victims often feel that they cannot come forward. Downham Market Town Council understands the need to support victims in making complaints.

3.2 Duties of managers and supervisors

All managers and councillors have responsibility for:

- creating an inclusive culture and environment so that any incidences of sexual harassment and/or victimisation are robustly challenged and tackled.
- treating informal and formal complaints seriously, with sensitivity to the feelings, perceptions and need for confidentiality of the individual raising the report.
- treating their workers fairly and taking prompt action where they are aware of unacceptable behaviour.
- ensuring that staff who report sexual harassment, or support others to do so, are not treated less favourably than others because of this (victimisation)
- assessing and managing risk arising from disclosures, reports and disciplinary processes.
- deal swiftly and explicitly with third party perpetrators with the view to banning individuals from premises, withdrawing membership or ending contracts.

3.3 Duties of individuals

All workers have a clear role to play in creating a work environment in which sexual harassment is not acceptable. All workers should:

- ensure they understand this policy and act in accordance with it, particularly if they are an alleged perpetrator of unacceptable behaviour.
- fully cooperate with any investigation and take seriously requests to cease or amend behaviour.
- not participate in, encourage or condone sexual harassment or victimisation of others.
- treat all workers and those they encounter through work with dignity and respect.
- think about their own behaviour and whether it might amount to sexual harassment and change their behaviour.

4. Procedure for receiving and responding to complaints of sexual harassment

Downham Market Town Council commits to dealing with cases of sexual harassment promptly, efficiently and sensitively when they become aware of them. You do not have to be the recipient or target of sexual harassment to make a report about it. If you see it happening or become aware of a problem, you have the right to challenge it and to make a report to the Town Clerk, Deputy Town Clerk or the Chair or Deputy Chair of the Human Resources Committee.

The word “reporter” is used to describe a person who has decided to share their experience of sexual harassment, whether informally or formally in the form of a complaint.

The phrase “alleged harasser” is used to describe any person who the reporter is saying was responsible for the harassment. The alleged harasser cannot be described as a “harasser” until after there has been a formal disciplinary decision. Using the word “alleged” does not imply that the reporter has made up an accusation.

4.1 Informal process

4.1.1 If a reporter feels confident and able to do so, they can raise their experience directly with the harasser. They can explain directly to the harasser why their behaviour was unacceptable, how their behaviour made them feel and that they would like them to stop it. This can be done verbally or in writing.

4.1.2 If the reporter feels unable to approach the harasser, they can ask a third party to support them. This third party will be fully engaged in resolving the issue and equipped to provide them with guidance in how to do so.

If you have experienced sexual harassment, it is also advised you tell a friend or someone you trust so you are not trying to cope with it alone and keep a diary of incidences. This will give a helpful record of the nature of the sexual harassment and when it occurred. It will be important if you choose to report the sexual harassment to establish a pattern over a period of time.

4.2 Formal process

If a reporter does not wish to pursue an informal route, the informal route has been tried and not worked, it is felt the alleged harasser will not respond to an informal process or the case is too serious for an informal process to be appropriate, a formal process is also available and stipulated here.

It is not the role of the third party to try to encourage, or discourage, a person from making a formal complaint. To do so could in itself constitute a disciplinary offence. Instead, that person should listen to the reporter and help them through the process.

4.2.1 The person carrying out the investigation will:

- interview the victim and the alleged harasser separately
- interview other relevant third parties separately
- decide whether or not the incident(s) of sexual harassment took place

- produce a report detailing the investigations, findings and any recommendations
- if the harassment took place, decide what the appropriate remedy for the victim is, in consultation with the victim (i.e.- an apology, a change to working arrangements for the harasser, a promotion if the victim was demoted as a result of the harassment, training for the harasser, discipline, suspension, dismissal)
- follow up to ensure that the recommendations are implemented, that the behaviour has stopped and that the victim is satisfied with the outcome
- if it cannot determine that the harassment took place, they may still make recommendations to ensure proper functioning of the workplace
- keep a record of all actions taken
- ensure that all records concerning the matter are kept confidential
- ensure that the process is done as quickly as possible and in any event within 28 days of the complaint being made
- all complaints will be investigated in a confidential manner at all times. Breaches of confidentiality by those investigating a complaint could lead to disciplinary action being taken against those responsible. Reporters are within their right to talk to a trusted colleague, rep, friend or family member.
- There is no time limit from the date of the incident within which complaints must be made. Clear timeframes will be set and communicated to the reporter for each stage of the formal process.
- Sexual harassment investigations will not be conducted by people without specialist training.

Every act of sexual harassment – whether it might be characterised as “banter” or otherwise trivialised – contributes to a culture that supports and encourages the full range of sexually harassing behaviours.

After investigating the report, management may decide to take disciplinary action against the alleged harasser. Anyone who has been found to have sexually harassed another person under the terms of this policy is liable to any of the following sanctions.

- written warning
- final written warning
- behaviour agreement
- apology to those affected
- compulsory training
- suspension
- dismissal

The nature of the sanctions will depend on the gravity and extent of the harassment. Certain serious cases, including physical violence, will result in the immediate dismissal of the harasser.

Downham Market Town Council recognises that it is the right of reporters to be informed of the outcomes and sanctions in disciplinary cases where they were the victim.

A complainant can ask a third party, stipulated above, to help with the formal process. It is advised reporters approach a third party who is more senior than the harasser if you feel comfortable doing this.

Wherever possible, Downham Market Town Council will try to ensure the reporter, and the alleged harasser are not required to work together while the report is under investigation.

4.3 Legal action

4.3.1 If an act of sexual harassment may also amount to a criminal offence Downham Market Town Council should consider raising the possibility of reporting the matter to the police with the complainant and provide them with the support to do so. Wherever possible, Downham Market Town Council will follow the wishes of the reporter.

4.4 Appeals

Both the reporter and the alleged harasser may appeal an outcome, on limited grounds. The process will be in line with the provisions as the Complaints Procedure:

1. Whether the correct procedure was followed.
2. Whether there is substantial new evidence.
3. Whether the outcome was wrong or unfair.

5. Support for staff who have experienced sexual harassment

If a reporter has experienced sexual harassment at work, they can contact the following organisations for free and confidential support and advice:

- ACAS www.acas.org.uk
- Rights of Women free and confidential legal helpline for women who have experienced sexual harassment at work: 020 7490 0152
- Galop, the LGBT+ anti-violence charity, 0800 999 5428
- Citizens Advice Bureau
- Equality and Human Rights Commission (EHRC)

6. Sharing this policy

Downham Market Town Council will ensure that this policy is effectively communicated to all workers by:

- Publishing this policy in an easily accessible location, that can be accessed by all workers at all times without having to ask another member of staff for the policy
- Making reference to the policy in the contract of employment.
- Verbally communicating the policy during the worker induction process and where it can be found

Downham Market Town Council commits to reviewing the policy on a three-year basis to update and monitor its effectiveness.

Every effort has been made to ensure Downham Market Town Council's employment policies are aligned. In all matters relating to sexual harassment, this sexual harassment policy, takes preference.

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