

SEXUAL HARASSMENT - ACCEPTABLE CONDUCT AND GUIDANCE NOTE

This note is intended to provide additional information and guidance for Members and should be read alongside the Members' Code of Conduct and the Council's Acceptable Behaviour Policy.

Devon County Council is committed to providing a workplace that is free from sexual harassment, bullying or victimisation. We encourage the highest possible standards of conduct from all those that represent the council.

Sexual harassment in the workplace is against the law and will not be tolerated. The Council will take all complaints of this nature extremely seriously and when it finds instances of sexual harassment have taken place, it will always take prompt and appropriate corrective action.

What is sexual harassment?

Sexual harassment takes place when someone is subjected to unwelcome and unwanted sexual behaviour or other such conduct related to their gender.

Sexual harassment is defined in law in the Equality Act 2010 as *'unwanted conduct [related to a person's sex] which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual'*.

Behaviour that constitutes sexual harassment includes:

- Unwelcome advances – physical, written and verbal.
- Inappropriate, lewd or suggestive remarks.
- Indecent comments, sexist or lewd jokes or innuendos relating to a person's physical appearance or private life.
- Unwanted physical contact such as hugging, kissing or touching.
- Requests for sexual favours.
- Pestering someone for a relationship (for example, repeatedly asking a person to socialise outside work when the person has said no or indicated they are not interested) or following them around (stalking).
- Sharing personal information about your sex life.
- Giving gifts or leaving objects that are sexually suggestive.
- Sharing sexually inappropriate images or videos, such as pornography with colleagues.
- Making or displaying inappropriate sexual images or posters in the workplace.
- Making inappropriate sexual gestures.
- Leering or staring in a sexually suggestive or offensive manner, or 'wolf whistling'.
- Making sexual or suggestive comments about appearance, clothing, or body parts.

- Inappropriate touching including pinching, patting, rubbing, or purposefully brushing up against another person.
- Asking sexual questions, such as questions about someone's sexual history or their sexual orientation.
- Making offensive comments about someone's gender identity.

A victim of sexual harassment can be a man or woman. The victim can be the same sex as the harasser.

Often this kind of behaviour may be brushed off by the harasser as 'banter', harmless flirting and not intending to cause offence. However, it is important to remember that it is the impact on others that matters most and whether offence is caused to them by such conduct.

An elected member will have regular contact with a broad range of people in the course of their duties. This includes officers and other employees of the Council, representatives of partner agencies, service users, and members of the public. This guidance, alongside the Code of Conduct, can therefore apply both within the workplace and wherever someone is acting in a representative capacity.

The Council's responsibilities

If the Council receives an allegation of sexual harassment or has reason to believe sexual harassment is occurring, it will take the necessary steps to ensure the matter is promptly investigated and addressed.

Where it is found that someone has been subjected to unwelcome behaviour, the Council will take immediate and effective measures to end that unwelcome behaviour and/or take action against the perpetrator.

The Council is committed to take action if it learns of possible sexual harassment, even if the individual does not wish to make a formal complaint. This will also apply to retrospective or historic allegations.

Concerns expressed anonymously will be considered by the Council taking account of the following criteria:

- the seriousness of the issues raised
- the likelihood of confirming the allegation from attributable sources
- the protection of the County Councils' staff and Members
- the Councils' best interests

The Council has a responsibility for investigating or overseeing investigations of alleged sexual harassment or other breaches of the Code of Conduct and for ensuring these are conducted in a prompt, thorough, and impartial manner, and carried out with sensitivity and due respect for the rights of all parties concerned.

The Council will always seek to protect the identities of the complainant and alleged harasser. Where allegations are made in confidence we will not disclose the complainant's name until the reasons for any disclosure have been fully explained to them. Allegations may be raised anonymously and that anonymity will be respected. It is acknowledged that maintaining the anonymity of the complainant will make it more difficult to investigate the allegations of sexual harassment that are made.

Members will note that complainants will be protected from victimisation by Members or other officers under employment legislation. If a Member is informed that they have had a complaint of harassment lodged against them, they should not seek to contact the complainant or, if the allegation is made anonymously, whoever they think made the complaint.

For more information on the process to be taken by the council see the guide to [Making a Complaint against a Devon County Councillor](#) and for information on the protection of both a complainant and the person accused see the [Acceptable Behaviour](#) Policy.

Member's rights and responsibilities

Any Member who believes he or she has been the target of sexual harassment can, if they wish, inform the offending person orally or in writing that such conduct is unwelcome, offensive and must stop immediately. It is recognised that the Member may not wish to communicate with that person.

If that is the case or if such communication has been ineffective, there are multiple avenues for reporting allegations and/or pursuing a resolution – whether via a Members' own political party or via the County Council.

Furthermore, all elected Members have a responsibility to take all appropriate measures to prevent or stop sexual harassment by others.

If a Member wishes to confidentially discuss any matter of concern, report an incident, or make a formal complaint, they are advised to consult the following guides [Feedback and complaints](#); and [Making a Complaint against a Devon County Councillor](#), which set out the council's resolution and complaint processes.