



SEXUAL HARASSMENT POLICY

DOCUMENT VERSION CONTROL

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INTRODUCTION

SEStran is committed to a working environment free from sexual harassment and where everyone is treated with dignity and respect. We will not tolerate sexual harassment. The law requires employers to prevent sexual harassment of their workers. We assess the risks of sexual harassment and take steps to manage risks.

DEFINITION

Sexual harassment is where someone is subjected to unwanted conduct of a sexual nature which has the purpose or effect of violating their dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them.

Sexual harassment can also occur if someone is treated less favourably because they reject or submit to harassment of a sexual nature.

Sexual harassment can occur:

- **Inside and outside the workplace.** This can include business trips and work-related social events.
- **In person (face-to-face) or via other means.** This includes via email, text or social media and whether it is via our IT systems or equipment or otherwise.
- **During and outside working hours.**

Sexual harassment may be carried out:

- **By someone working for us.** This includes employees, consultants, contractors, casual workers and agency workers.
- **By third parties.** This includes customers, service users, suppliers and visitors to our premises. With a view to preventing sexual harassment by third parties, we will for example, make clear to suppliers that we will not tolerate sexual harassment.
- **Regardless of the gender of the victim or harasser.** A harasser can be the same gender as the victim or a different gender.

A one-off incident can amount to sexual harassment. It does not need to be directed at the alleged victim. It can, for example, be witnessed or overheard. Conduct can still be 'unwanted' if it has been accepted in the past, is acceptable to others, or is common in the working environment.

Sexual harassment can occur if a person:

- intends to cause offence; **or**
- does not intend to cause offence, but this is the **effect** of their conduct – in these cases, in deciding whether there has been sexual harassment, we will consider the alleged victim's perception; whether it is reasonable for the conduct to have the alleged effect; and any other relevant circumstances.

Examples

If it meets the definition above, sexual harassment can include:

- **Unwanted physical contact**, such as patting, pinching, hugging, inappropriate touching and sexual assault.
- **Verbal conduct**, including jokes or 'banter' of a sexual nature (even if not directed at a particular individual); sexual advances; promises in return for sexual favours; spreading sexual rumours.
- **Non-verbal conduct**, including sending emails or texts with material of a sexual nature; posting something of a sexual nature on social media; displaying sexually explicit or suggestive images in the workplace (including computers, desks, mobile phones); sexually-suggestive gestures; whistling / leering; basing a decision about a person (e.g. turning someone down for a promotion) on the fact that they rejected or submitted to sexual advances.

These are examples and other conduct might amount to sexual harassment.

LEGAL LIABILITY AND DISCIPLINARY OFFENCE

Sexual harassment (including by third parties) can result in legal liability for SEStran and the perpetrator.

Sexual harassment by employees can amount to misconduct or gross misconduct and in serious cases may lead to dismissal without notice. This includes sexual harassment:

- at work and work-related events
- against a colleague or other person connected to us outside of work (for example, via social media)
- against anyone outside of work if relevant to the employee's suitability for their role.

Aggravating factors, such as abuse of power over a more junior colleague, may be relevant in deciding what disciplinary action to take.

REPORTING SEXUAL HARASSMENT

Employees are encouraged to report incidents of sexual harassment, including by third parties (such as contractors). Employees making such reports will be protected from victimisation as explained below. Employees can make an anonymous complaint via SEStran's HR Adviser at by emailing hrhelpdesk@falkirk.gov.uk. If such a complaint is made, this will be directed to the Partnership Director, if appropriate, or to the Chairperson of the Board who will be advised on appropriate steps to be taken.

Informal steps

An employee may feel able to tell an alleged harasser that their behaviour is not welcome

and that it offends them or makes them uncomfortable. Whether this is appropriate will depend on the circumstances, for example, the nature of the sexual harassment and individuals involved. Employees can use the other reporting options (anonymous reporting or a formal complaint) without first taking informal steps or after they have taken informal steps.

If an employee feels that a matter can be dealt with informally but does not want to speak directly to the individual themselves, they can contact their line manager, the Business Manager or the Partnership Director instead.

If management become aware of an allegation informally, they may still decide that a formal investigation is appropriate.

Formal complaint

If an employee considers that they have been subjected to sexual harassment, they can make a formal complaint in writing:

- In line with the Grievance Procedure.
- The complaint should be sent to the employee's line manager, the Business Manager or the Partnership Director. If none of these options are suitable, it can be sent to SEStran's Human Resources Adviser at hrhelpdesk@falkirk.gov.uk.

The complaint should include as much information as possible, for example: the name of the alleged harasser; nature of the harassment; where and when it took place; any witnesses; any action taken so far.

Non-employees can submit a complaint to the Business Manager or Partnership Director. They will determine the appropriate action in consultation with SEStran's Human Resources Adviser as required.

Other policies

SEStran's Equal Opportunities and Dignity at Work Policy may also be relevant to a sexual harassment complaint.

<https://sestran.gov.uk/publications/equal-opportunities-dignity-at-work/>

Criminal allegations

It is open to an employee who has been a victim of physical violence, or any other crime, to contact the police at any time.

Sexual harassment of someone else

An employee may witness or become aware of sexual harassment or victimisation of someone else. This includes sexual harassment of (and by) colleagues, other workers, suppliers and visitors. Employees are encouraged to act in this situation. What is appropriate will depend on the circumstances but might include:

- Intervening if the employee feels able to do so
- Supporting the victim to report it
- Reporting it themselves.

- Co-operating in any investigation.

Any employee reporting sexual harassment of someone else will be protected from victimisation as explained below.

INVESTIGATION/ POTENTIAL OUTCOMES

Formal complaints or sexual harassment will be investigated. An investigation may also be undertaken in some cases, where SEStran become aware of sexual harassment allegations informally.

Complaints against SEStran employees

These will be investigated by an appropriate manager in line with the Disciplinary Policy. Any action taken will be in line with that policy. Sexual harassment can amount to misconduct or gross misconduct, and in serious cases may lead to dismissal without notice.

Complaints against individuals who are not SEStran employees

The appropriate approach will be determined in consultation with SEStran's Human Resources Adviser. This may include investigation.

Potential outcomes may include for example: for service users - warning them about their behaviour or banning them from our premises; or for contractors - notifying their employer or ceasing to work with them.

False information

Anyone making a complaint or giving evidence in support of it will not be subjected to disciplinary action or another detriment simply because a complaint is not upheld. However, disciplinary action may be taken if an employee:

- provides false information as part of an investigation under this policy; **and**
- they do so in bad faith i.e. they know the information is false.

In serious cases, this may amount to gross misconduct leading to dismissal without notice.

Communicating the outcome of the complaint

After the steps above, the decision maker will:

- Arrange a meeting with the complainant to inform them of their decision in relation to the complaint and reasons for this.
- Write to the complainant to confirm that decision and the reasons for it.
- Confirm if action will be taken. In some cases, the complainant may be informed of the nature of any action taken to address their specific complaint and any measures put in place to prevent a similar event happening again. This will not always be possible or appropriate (eg to maintain confidentiality linked to a disciplinary process).

An employee who is dissatisfied with the outcome of their complaint may submit an appeal within five working days. The appeal process in the Grievance Policy will apply.

Ongoing working relationships

Whatever the outcome, SEStran will consider how best to manage ongoing working relationships. This could include, for example, mediation, counselling or training.

Other steps

If sexual harassment or victimisation occurs, SEStran will consider what steps can be taken to prevent it happening again. These may include, for example, updating policies or providing further staff training.

Victimisation

An employee will not be victimised or subjected to any detriment (such as being denied or excluded from opportunities at work) or retaliation for making an allegation (or giving evidence or information as part of an investigation) in good faith. If an employee believes that they have been victimised or subjected to detriment they can raise this under the Grievance Policy.

Victimisation or retaliation by employees can amount to misconduct or gross misconduct, and in serious cases may lead to dismissal without notice.

This policy will be reviewed annually, to take account of developments within SEStran and legislative require