

**Personnel
Advice &
Solutions Ltd**

**COUNCIL NEWS
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Council's New Duty to Prevent Sexual Harassment

From October 2024 new legislation (s40A Equality Act 2010) places greater responsibilities and legal requirements on Councils, along with all Employers, to take proactive steps to prevent Sexual Harassment at work.

Councils will need to take steps to demonstrate that they are preventing the problem. This doesn't simply mean having an up to date Policy and Procedure, but actively taking steps to reduce the risk of harassment. However the starting point needs to be for the Full Council, or a Committee with delegated responsibility for HR affairs, to ensure that the Council's procedures are fit for purpose.

Current guidance on the ACAS Website ([Preventing sexual harassment - Sexual harassment - Acas](#)) sets out the following requirements for the Councils' Anti-Harassment policies and procedure to follow:

- 1 The policy should provide a range of options for reporting sexual harassment, depending on who the person who has been subject to harassment feels comfortable with.
- 2 The policy should provide a range of informal options for dealing with sexual harassment.
- 3 The policy should contain a formal complaints procedure for the Employee to use if they wish.
- 4 The formal procedure should allow Union representation.
- 5 The procedure should be clear about when disciplinary action might be needed.
- 6 The procedure should have one investigation to investigate the complaint and any subsequent disciplinary action.
- 7 The policy should contain details of help and support available to the person who made the complaint.
- 8 Someone who's been sexually harassed will be given paid time off to get help with any resulting physical or mental health problems.

In addition, specific guidance notes have been developed by the Equality and Human Rights Commission for all Employers. In terms of how they apply to Town and Parish Councils, the following need to be taken into consideration:

- The Full Council, or a Committee with delegated responsibility, will need to review existing procedures, including defining what constitutes harassment, steps to take should the problem arise, protection the Council will provide to those reporting it, and sanctions against offenders. As a result, a Policy and Procedure that is specific to the needs of the Council should be drafted.
- Staff should be consulted on the draft policy and procedure, to get their suggested adjustments, as well as commitment to the document. If the Council has a collective bargaining arrangement with one or more Union, they too should be consulted as part of the process of updating procedures.
- The procedure should be issued to Councillors, staff and displayed in public areas.
- All Councillors and staff should either attend a briefing session regarding how the new/updated policy and procedure works, or be required to read the document and sign it to confirm that they understand and will comply with it.
- This will need to be repeated on an annual basis to ensure that the training doesn't become outdated. Provision of annual training would enable a Council to demonstrate that it has taken reasonable steps to prevent the problem. This can provide the Council with a valuable defence if it has to defend a claim of Sexual Harassment at the Employment Tribunal.
- The Policy and Procedure should include a simple and user-friendly reporting process should problems occur, as well as set out what action will be taken against offenders. For example, Employees who are found to have committed acts of Sexual Harassment would be accused of Gross Misconduct.
- Elected Members who are accused of Sexual Harassment may have breached the Integrity Standard of the Code of Conduct. In these circumstances the Council could report the problem to the District Monitoring Officer, asking for the matter to be addressed promptly and without undue delay.

All Councillors and Employees of the Council should be fully aware of the Policy and Procedure, and understand how it can be implemented.

It is important to ensure that procedures, and the way that they are implemented, are appropriate to the size of the Council and its resources. There is no point in developing elaborate procedures that are simply unworkable. There are no particular criteria or minimum standards for Councils when implementing their anti-harassment procedures. They must be practical and, most importantly, are workable for the size of the Council and its workforce.

From October 2024 Councils could face a surcharge of 25% on top of any compensation awarded to an Employee who successfully makes a claim of Sexual Harassment at an Employment Tribunal, if a Council cannot demonstrate how they have complied with the new rules.

However those Council's that have taken all 'reasonable steps' to implement workable procedures will have a defence against claims at the Tribunal for Sexual Harassment, under s109 of the Equality Act 2010.

The Government Drops the Workers (Predictable Terms and Conditions) Act 2023.

We reported in October 2023 that the above legislation would come into effect in September 2024. However in a last minute decision, the new legislation has been dropped.

The purpose of the Act was to create a more secure work environment for people on Zero Hours contracts, as well as Fixed Term contracts of 12 months or less. It was expected to enable locums and casual staff to request:

1. Regular hours.
2. Regular days.
3. If they are engaged on a fixed term contract of 12 months or less, they can request that the contract be extended for a longer period or made permanent.

In a statement from the Department of Business and Trade the Govt plans to combine this legislation into a forthcoming Employment Bill, which will include a whole raft of new entitlements. It appears that, rather than muddy the waters by having two separate legal mechanisms for requesting predictable working hours, the government has decided to ignore the one it inherited and move forward with new legislation.

PROFILE

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