



POLICY INFORMATION (Policy no HR040)	
Subject	Sexual Harassment Policy <i>(This policy is non-contractual and is subject to periodic review and will be amended according to service development needs).</i>
Applicable to	All staff of Nottinghamshire Hospice
Target Audience	Others such as agents, consultants and other representatives of Nottinghamshire Hospice may be required to comply with the policy as a condition of appointment.
Date issued	10 Sept 2024
Next review date	10 Sept 2025
Lead responsible for Policy	Director of People Services
Policy written by	Director of People Services
Notified to (when)	Senior Leadership Team (Aug 2024)
Authorised by (when)	Board of Trustees (10 Sept 2024)
CQC Standard if applicable	
Links to other Hospice Policies	Freedom to Speak Up Policy
Links to external policies	
Summary	This policy details Nottinghamshire Hospice's committed to providing a working environment free from sexual harassment and ensuring all staff are treated, and treat others, with dignity and respect.
This policy replaces	N/A

IMPORTANT NOTICE

Staff should refer to the Hospice website for the most up to date Policy. If the review date has passed it is still valid for 3 months. After that staff should seek advice from their clinical lead or manager.

VERSION CONTROL		
Status	Date	Review date
Original policy written by Director of People Services	Aug 2024	
Policy notified to Senior Leadership Team	Aug 2024	
Policy ratified by Strategy and Corporate Governance Committee	10 Sept 2024	10 Sept 2025
Updated control sheet and published on website	Oct 2024	

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<p>1.</p>	<p>Introduction</p> <p>Nottinghamshire Hospice is committed to providing a working environment free from sexual harassment and ensuring all staff are treated, and treat others, with dignity and respect. We recognise that sexual harassment can occur both in and outside the workplace, such as at work-related events or social functions, or on social media.</p> <p>Sexual harassment or victimisation of any member of staff, or anyone they come into contact with during the course of their work, is unlawful and will not be tolerated. We will take active steps to help prevent the sexual harassment and victimisation of all staff. Anyone who is a victim of, or witness to, sexual harassment should report it immediately in accordance with this policy. This will enable us to take appropriate action and provide support. Sexual harassment can result in legal liability for both the business and the perpetrator, whether they work for us or are a third party outside of our control. Sexual harassment may result in disciplinary action up to and including dismissal.</p>
<p>2.</p>	<p>Scope</p> <p>This Policy covers all staff of Nottinghamshire Hospice.</p>
<p>3.</p>	<p>Definitions</p> <p>Sexual Harassment</p> <p>Sexual harassment is any unwanted physical, verbal or non-verbal conduct of a sexual nature that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. A single incident can amount to sexual harassment.</p> <p>It also includes treating someone less favourably because they have submitted or refused to submit to unwanted conduct of a sexual nature, or that is related to gender reassignment or sex, in the past.</p> <p>Sexual harassment may include, for example:</p> <ul style="list-style-type: none"> • unwanted physical conduct or "horseplay", including touching, pinching, pushing and grabbing

- unwelcome sexual advances or suggestive behaviour (which the harasser may perceive as harmless)
- sexually offensive emails, text messages or social media content
- continued suggestions for sexual activity after it has been made clear that such suggestions are unwelcome
- sending or displaying material that is pornographic or that some people may find offensive (including emails, text messages, video clips and images sent by mobile phone or posted on the internet).

A person may be sexually harassed even if they were not the intended target. For example, a person may be sexually harassed by pornographic images displayed on a colleague's computer in the workplace.

Victimisation

Victimisation includes subjecting a person to a detriment because they have done, or are suspected of doing or intending to do, any of the following protected acts:

- Bringing proceedings under the Equality Act 2010.
- Giving evidence or information in connection with proceedings under the Equality Act 2010.
- Doing any other thing for the purposes of or in connection with the Equality Act 2010.
- Alleging that a person has contravened the Equality Act 2010.

Victimisation may include, for example:

- Denying someone an opportunity because it is suspected that they intend to make a complaint about sexual harassment.
- Excluding someone because they have raised a grievance about sexual harassment.
- Failing to promote someone because they accompanied another staff member to a grievance meeting.
- Dismissing someone because they gave evidence on behalf of another staff member at an employment tribunal hearing.

Sexual harassment and victimisation are unlawful and will not be tolerated. They may lead to disciplinary action up to and including dismissal if they are committed: In a work situation.

- During any situation related to work, such as at a social event with colleagues.
- Against a colleague or other person connected to us outside of a work situation, including on social media.
- Against anyone outside of a work situation where the incident is relevant to your suitability to carry out your role.

We will take into account any aggravating factors, such as abuse of power over a more junior colleague, when deciding the appropriate disciplinary action to take.

If any sexual harassment or victimisation of staff occurs, we will take steps to remedy any complaints and to prevent it happening again. These may include updating relevant policies, providing further staff training and taking disciplinary action against the perpetrator.

Third-party Sexual Harassment

Third-party harassment occurs where a person is harassed or sexually harassed by someone who does not work for, and who is not an agent of, the same employer, but with whom they encounter during the course of their employment. Third-party harassment could include, for example, unwelcome sexual advances from a patient, family, carer, customer or supplier visiting Hospice premises, or where a person is visiting a patient's home or other location in the course of their employment.

Third-party sexual harassment can result in legal liability and will not be tolerated. All staff are encouraged to report any third-party harassment they are a victim of, or witness, in accordance with this policy.

Any sexual harassment by a member of staff against a third party may lead to disciplinary action up to and including dismissal.

We will take active steps to try to prevent third-party sexual harassment of staff.

	<p>If any third-party harassment of staff occurs, we will take steps to remedy any complaints and to prevent it happening again. These may include warning the harasser about their behaviour, banning them from our premises or refusing to enter private premises, reporting any criminal acts to the police, and sharing information with other teams at the Hospice.</p>
<p>4.</p>	<p>Responsibilities</p> <p>Senior Leadership Team</p> <p>The Senior Leadership Team have overall responsibility for the effective operation of this policy but has delegated responsibility for overseeing its implementation to the HR Department. Suggestions for change should be reported to the HR Department.</p> <p>Manager Responsibilities</p> <p>The purpose of this policy is to set out a framework for managers to deal with any sexual harassment that occurs by staff (which may include consultants, contractors, agency workers or student placements) and also by third parties such as customers, suppliers, patients, family or carers.</p>
<p>5.</p>	<p>Procedure</p> <p>Stage 1 - Informal Procedure</p> <p>If you are being sexually harassed, consider whether you feel able to raise the problem informally with the person responsible. You should explain clearly to them that their behaviour is not welcome or makes you uncomfortable. If this is too difficult, you should speak to your line manager or the HR team, who can provide confidential advice and assistance in resolving the issue formally or informally. If you feel unable to speak to your line manager because the complaint concerns them, you should speak informally to the HR team. If this does not resolve the issue, you should follow the formal procedure below.</p> <p>If you are not certain whether an incident or series of incidents amounts to sexual harassment, you should initially contact your line manager or the HR team informally for confidential advice.</p>

A record should be kept of this approach and the outcomes from any discussions.

Stage 2 - Formal Procedure

If informal steps are not appropriate, or have been unsuccessful, you should follow the formal procedure set out below.

The first step of the formal process is to raise your complaint formally in writing and submit it to your line manager, clearly stating that it is a formal complaint. If the complaint concerns your line manager, you may submit it to the next level of manager or the Director of People Services instead.

Your written complaint should set out full details of the conduct in question, including the name of the harasser, the nature of the sexual harassment, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.

If you wish to make a formal complaint about victimisation, you should submit it in writing to your line manager, clearly stating that it is a formal complaint. If the matter concerns your line manager, you may submit it to the next level of manager or the Director of People Services instead.

Your written complaint should set out full details of the conduct in question, including the name of the person or persons you believe have victimised you, the reason you believe you have been victimised, the nature of the victimisation, the date(s) and time(s) at which it occurred, the names of any witnesses and any action that has been taken so far to attempt to stop it from occurring.

As a general principle, the decision whether to progress a complaint is up to you. However, we have a duty to protect all staff and may pursue the matter independently if, in all the circumstances, we consider it appropriate to do so.

If you witness sexual harassment or victimisation

Staff who witness sexual harassment or victimisation are encouraged to take appropriate steps to address it.

Depending on the circumstances, this could include:

- Intervening where you feel able to do so.
- Supporting the victim to report it or reporting it on their behalf.
- Reporting the incident where you feel there may be a continuing risk if you do not report it.
- Co-operating in any investigation into the incident.

All witnesses will be provided with appropriate support and will be protected from victimisation.

Formal Meetings

We will investigate complaints in a timely, respectful and confidential manner. Individuals not involved in the complaint or the investigation/meetings should not be told about it.

We will arrange a meeting with you, normally within 10 working days of receiving your formal written complaint, so that you can give your account of events. You have the right to be accompanied by a colleague (but not Volunteer) or a trade union representative of your choice, who must respect the confidentiality of the investigation. The person hearing the complaint will be accompanied by a Human Resources representative or another manager (this being an exception and where possible a HR representative), who will take minutes. You will be provided with at least 48 hours' notice, in writing, of the meeting. The meeting may be held sooner if all parties are in agreement.

Copies of the minutes of the meeting will be sent to you to read and confirm the content of the notes are an accurate reflection of the discussion, they are not however a verbatim record. You will have 48 hours in which to read and if necessary, amend the notes. If the HR team does not receive a copy of the signed or amended notes within 48 hours the assumption will be made that you are in agreement with the content of the notes.

After the meeting, the Hospice may carry out further investigations, including meetings with the alleged member of staff and any witnesses. The Hospice may also need to hold a further meeting with you, as it considers appropriate to discuss

further investigations. Such meetings will be arranged without unreasonable delay.

The Hospice will write to you, usually within 10 working days from the completion of investigations, to inform you of the outcome of your complaint and any further action that we intend to take to resolve the matter. You will be reminded of your right of appeal. Where appropriate, the Hospice may hold a meeting to give you this information in person in the first instance.

Actions following Formal Meetings

If the senior manager considers that there is a case to answer and the harasser is an employee, the matter will be dealt with as a case of possible misconduct or gross misconduct under our Disciplinary Procedure. Our investigation into your complaint may be put on hold pending the outcome of the Disciplinary Procedure. Where the disciplinary outcome is that sexual harassment occurred, prompt action will be taken to address it. If the harasser is a third party, such as a customer or other visitor, we will consider what action would be appropriate to deal with the problem.

Whether or not your complaint is upheld, we will consider how best to manage the ongoing working relationship between you and the person concerned. It may be appropriate to arrange some form of mediation or counselling, or to change the duties, working location or reporting lines of one or both parties.

Any staff member who deliberately provides false information in bad faith, or who otherwise acts in bad faith as part of an investigation, may be subject to action under our Disciplinary Procedure. However, you will not be disciplined or treated detrimentally because your complaint has not been upheld.

Appeal

If you are not satisfied with the outcome you may appeal in writing stating your full grounds of appeal, within 5 working days of the date on which the decision was sent or given to you.

We will hold an appeal meeting, normally within 10 working days of receiving your written appeal. Where practicable, the appeal hearing will be conducted by a

manager (or where appropriate, a trustee) who has not been previously involved in the case and is senior to the individual who conducted the previous meeting. They may ask anyone previously involved to be present. You have the right to bring a colleague (but not volunteer) or trade union representative to the meeting.

We will confirm our final decision in writing, usually within one week of the appeal hearing. This is the end of the procedure and there is no further appeal.

Separation of Parties / Suspension

Where your complaint is about an employee, we may consider suspending them on full pay or making other temporary changes to working arrangements pending the outcome of the investigation, if circumstances require. The investigator will also meet with the alleged harasser to hear their account of events. They have a right to be told the details of the allegations against them, so that they can respond.

Where your complaint is about someone other than an employee, such as a patient, customer, supplier or visitor, we will consider what action may be appropriate to protect you and anyone involved pending the outcome of the investigation, bearing in mind the reasonable needs of the business and the rights of that person. Where appropriate, we will attempt to discuss the matter with the third party.

We will also consider any request that you make for changes to your own working arrangements during the investigation. For example, you may ask for changes to your duties or working hours to avoid or minimise contact with the alleged harasser.

Right to be Accompanied

The complainant may bring a companion to any meeting under this process. The companion may be either a fellow worker at Nottinghamshire Hospice (but not volunteer) or an official employed by a trade union. Members of staff must tell the person holding the grievance meeting who their chosen companion is, in good time before the meeting.

At the meeting, the companion may make representations to us and ask questions but should not answer questions on the member of staff's behalf. The staff member may talk privately with their companion at any time during the meeting.

Acting as a companion is voluntary and fellow colleagues are under no obligation to do so. If they agree to do so, they will be allowed reasonable time off from duties without loss of pay to act as a companion. If the chosen companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards, the Hospice may ask to choose someone else.

The Hospice may, at its discretion, allow a member of staff to bring a companion who is not a colleague or union representative (for example, a member of their family) if this will help overcome a disability, or difficulty understanding English.

Witnesses

As part of this Sexual Harassment Policy, we may ask for evidence from witnesses. Witness evidence will be disclosed to all the relevant parties if it is to be relied upon as part of the outcome of the grievance.

If you are asked to be involved in a sexual harassment complaint as a witness, you are expected to fully co-operate with any investigation. If you attend an interview, copies of the minutes of the interview will be sent to you to read and confirm that the content of the notes are an accurate reflection of the discussion, they are not however a verbatim record. You will have 48 hours in which to read and if necessary, amend the notes. If the Human Resources Department do not receive a copy of the signed or amended notes within 48 hours the assumption will be made that you are in agreement with the content of the notes.

You will be expected to treat as confidential any information communicated to you in connection with an investigation. In exceptional circumstances, the Hospice may consider a request to protect your identity, but total anonymity cannot be guaranteed. Any breach of confidentiality may lead to disciplinary action under the Disciplinary Policy and Procedure.

Alleged Staff

If you have been accused of sexual harassment, at the appropriate time in the procedure, you will be invited to an investigation meeting. You are expected to fully co-operate with any investigation. If you attend an interview, copies of the minutes of the interview will be sent to you to read and confirm that the content of the notes are an accurate reflection of the discussion, they are not however a verbatim record. You will have 48 hours in which to read and if necessary, amend the notes. If the Human Resources Department do not receive a copy of the signed or amended notes within 48 hours the assumption will be made that you are in agreement with the content of the notes.

You will be expected to treat as confidential any information communicated to you in connection with an investigation. In exceptional circumstances, the Hospice may consider a request to protect your identity, but total anonymity cannot be guaranteed. Any breach of confidentiality may lead to disciplinary action under the Disciplinary Policy and Procedure

Unable to Attend due to Ill Health

If you are unable to attend any meeting due to ill health the Hospice will either postpone the meeting or give you the opportunity to send a written submission and nominate a representative to attend on your behalf. The representative may be a fellow worker at Nottinghamshire Hospice (but not Volunteer) or an official employed by a trade union. When considering whether it is appropriate to postpone the Hospice will consider the likely length of your absence and the impact of delaying, both on you and other staff. There may be some occasions when there is a need to investigate and respond to your complaint in your absence.

Protection and support for those involved

Staff who make complaints, report that they have witnessed wrongdoing, or who participate in good faith in any investigation must not suffer any form of retaliation or victimisation as a result. Anyone found to have retaliated against or victimised

someone in this way will be subject to disciplinary action under our Disciplinary Procedure.

If you believe you have suffered any such treatment you should inform your line manager or the HR team. If the matter is not remedied, you should raise it formally using our Grievance Procedure or this procedure if appropriate.

We will monitor the treatment and outcomes of any complaints of sexual harassment or victimisation we receive to ensure that they are properly investigated and resolved, those who report or act as witnesses are not victimised, repeat offenders are dealt with appropriately, cultural clashes are identified and resolved and workforce training is targeted where needed.

If you require additional support, you may like to contact our Employee Assistance Programme (EAP). This is a confidential service 24/7, 365 days a year. Tel: 0800 072 0353.

Support and guidance can also be obtained from the following external services:

- The Equality Advisory and Support Service (www.equalityadvisoryservice.com).
- Protect (www.protect-advice.org.uk).
- Victim support (www.victimsupport.org.uk).
- Rape crisis (www.rapecrisis.org.uk).
- Rights of women (England and Wales) (www.rightsofwomen.org.uk).
- Scottish Women's Rights Centre (Scotland) (www.scottishwomensrightscentre.org.uk).

Malicious Complaints

If the Hospice believes, during this procedure, that your complaint has been raised maliciously (for example knowing the allegations were false or raising them in bad faith) it may not proceed with the full Sexual Harassment procedure. Instead, this

	<p>may be treated as misconduct and appropriate action taken under the Disciplinary Policy and Procedures.</p> <p>Reporting outcomes, confidentiality and record-keeping</p> <p>Confidentiality is an important part of the procedures provided under this policy. Details of the investigation and the names of the person making the complaint and the person accused must only be disclosed on a "need to know" basis. Breach of confidentiality may give rise to disciplinary action under our Disciplinary Procedure.</p> <p>When appropriate and possible, where a complaint is upheld, we will advise the complainant of the action that has been taken to address their specific complaint and any measures put in place to prevent a similar event happening again.</p> <p>Information about a complaint by or about a staff member may be placed on their personnel file, along with a record of the outcome and of any notes or other documents compiled during the process. These will be processed in accordance with our Data Protection Policy.</p>
<p>6.</p>	<p>Equality Impact Assessment (EIA)</p> <p>An EIA has been completed for this policy.</p>