JustUs Sexual Harassment Policy

JustUs 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. Sexual harassment is unethical, unprofessional and undermines JustUs' organisational values and aims. For these reasons, JustUs takes a zero-tolerance approach to sexual harassment.

JustUs is committed to promoting an environment free from all forms of sexual harassment and recognise that it is responsible for protecting all workers from sexual harassment.

JustUs believes that sexual harassment is not inevitable and can be prevented through practical action to protect workers against harassment and transform workplace cultures and therefore agrees that appropriate steps should be taken to achieve this as set out in this policy.

JustUs recognises that sexual harassment is a manifestation of power relationships and often occurs within unequal relationships in the workplace.

Any instances of sexual harassment, including those carried out by trustees and employees of JustUs as well as clients will be dealt with in accordance with this internal policy.

This policy covers full-time and part-time workers as well as volunteers. Sexual harassment can occur in a work situation, during any situation related to work such as at a social event, outside of the workplace such as visiting a client's home, and on social media or any online communication such as emails, video conference calls, phone calls or instant messaging platforms.

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.

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, and
- sexual assault including unwelcome touching, hugging, massaging or kissing.

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

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

The conduct does not need to be a 'pattern of behaviour'. A series of incidents which taken separately may seem trivial, can together constitute sexual harassment. Equally, one isolated incident can be sexual harassment.

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. Treating a worker badly can include, but is not limited to:

- dismissing a worker
- denying a worker a development opportunity
- blacklisting a contractor.
- excluding a worker from tasks, projects, meetings or day to day work
- telling other organisations to not hire someone due to their reporting of sexual harassment.

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 JustUs recognises that:

Anyone can experience sexual harassment, and an individual can experience sexual harassment from someone of the same sex or a different sex.

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 relevant disciplinary/grievance procedures which cover harassment related to protected characteristics. This policy concerns itself only with behaviour that constitutes sexual harassment, that is behaviour that is 'sexual in nature'.

Sexual harassment can *at the same time* be harassment related to a protected characteristic in which case it is covered under this policy. Some forms of sexual harassment are specifically related to a person's combination of characteristics, such as many experiences of racialised sexual harassment directed at Black and Minority Ethnic (BME) women workers.

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.

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 client. JustUs 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.

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. These power imbalances will be considered when deciding what disciplinary action is taken.

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

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.

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.

JustUs 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:

Training for all workers, including those at board level, 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.

Good management practice including inclusive, competent people management.

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 at events.

Ensuring workers have access to appropriate resources and a safe confidential space for discussions, this should be both physical and digital, dependant on whether workers are based on-site or work remotely.

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:

Amongst staff

- in all worker inductions and employment contracts.

- through regular mandatory anti-sexual harassment training for all workers.

- 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 the internal sharing of information.

- Sexual harassment may be mentioned in references for dismissed or voluntarily severed workers, who have been subject to complaint and left before resolution or who have been found to have engaged in sexual harassment. JustUs considers it a proportionate measure of legitimate interest under GDPR to retain information about formal and informal complaints of sexual harassment and to communicate the findings where a report of sexual harassment has been upheld or where a worker left while an investigation was in process. Personal data in reports aimed at reducing bullying and harassment in places of work and study are of legitimate interest under GDPR. For special category data, this can be justified under "reasons of substantial public interest" which includes "equality of treatment", "preventing and detecting unlawful acts" and "safeguarding".

Amongst third parties

- Making third parties aware of JustUs' sexual harassment policy any time they interact with JustUs workers. This can include a recorded message at the beginning of a telephone call, in email communications, at the start of online events and meetings, or in-person conferences.

- The information provided to third parties will make clear JustUs does not tolerate sexual harassment and will set out the actions JustUs will take if a third party sexually harasses a worker including refusing to work with/supporting a third party, reporting criminal acts to the police, or sharing information when appropriate.

Roles and responsibilities

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.

JustUs will endeavour to:

Ensure workers have access to confidential support and advice services during work hours and outside of them. This includes ensuring there are designated members of staff responsible for receiving reports of sexual harassment.

Establish effective recording and reporting mechanisms, there should be formal and informal reporting routes.

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 JustUs' 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 JustUs through the relevant country/legal framework

Throughout the complaint's procedure, a victim is entitled to be supported by a member of staff who has received training in responding to sexual harassment. JustUs will offer training to staff who wish to volunteer to assist victims of sexual harassment. JustUs recognises that because sexual harassment often occurs in unequal relationships within the workplace, victims often feel that they cannot come forward. JustUs understands the need to support victims in making complaints.

JustUs has 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; and
- 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

- dealing swiftly and explicitly with third party perpetrators with the view to excluding individuals from support

- ensuring this policy is followed through at all times

- being an exemplar of acceptable behaviour.

Duties of individuals

JustUs personnel including volunteers have a clear role to play in creating a work environment in which sexual harassment is not acceptable. Individuals 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;

- promote an inclusive culture in which colleagues or peers are not subjected to sexual harassment or victimisation by challenging and/or reporting these forms of behaviour to the appropriate person;

- treat everyone with dignity and respect

- think about their own behaviour and whether it might amount to sexual harassment and change their behaviour accordingly.

Procedures for receiving and responding to complaints of sexual harassment

JustUs commits to dealing with cases of sexual harassment promptly, efficiently and sensitively when we 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 a staff or board member.

This policy includes an informal as well as formal process for dealing with reports of sexual harassment.

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. At JustUs we do not refer to people who make reports of sexual harassment as “complainers” or “complainants” because we welcome their reports and we reject the all-too-common characterisation of reporters as “troublemakers". When people decide to report sexual harassment, they normally do so out of a sense of wanting to make the workplace better for themselves and for others.

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. JustUs recognises that false allegations of sexual harassment are rare, that victim-blaming is common and that victims are often worried they will not be believed because of biases and myths in our society, or that they will be punished if an investigation does not conclude there was sufficient evidence to make a finding. JustUs will always assume that reports have been made in good faith unless there is evidence to the contrary. Any investigation will always examine the evidence from the case.

Informal process

If a reporter feels confident and able to do so, they can raise their experience directly with the harasser. The reporter 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.

JustUs recognises that sexual harassment may occur in unequal relationships and that it may not be possible for the victim to inform the alleged harasser. If the reporter feels unable to approach the harasser, they can ask a third party (e.g. a colleague or a trustee) to support them. This third party will be fully engaged in resolving the issue.

The third party can take one or more of the following actions:

- listen to reporter
- accompany them when speaking to the alleged harasser
- help the reporter set out their thoughts in writing
- raise the matter informally with the alleged harasser on the reporter’s behalf
- help to obtain advice on how best to resolve the issue and/or assistance in doing so from other sources either internally or externally
- help to obtain advice on or assistance in dealing with issues relating to particular protected characteristics. For example, from another charity with expertise relating to a particular disability
- help to obtain counselling or support for the reporter
- assure the reporter that they do not have to raise a formal complaint, unless they want to, and they will be led by their choices.
- In some, limited circumstances mediation could be considered. This should only be arranged at the request of the reporter. Mediation can normally only be suitable where there is an admission of wrongdoing on the part of the alleged harasser whether or not

they intended harm. It is not suitable where serious or systematic harassment or violence is being alleged, nor where there is an imbalance of power or where reporters fear reprisals or for their safety. It should be convened by an external mediator trained on sexual harassment, between the complainant and alleged harasser. Both parties must enter into mediation voluntarily.

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.

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.

A reporter or reporters who wish to make a formal complaint can ask anyone at JustUs who has received training in responding to reports of sexual harassment, to help with this formal disciplinary and grievance process.

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.

A formal complaint can be made to anyone in JustUs who is competent to deal with the complaint.

The designated person who initially received the complaint will refer the matter to a trustee to instigate a formal investigation. The trustee may deal with the matter themselves or deal with it as a group with other board members.

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, 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.

The investigation procedure will be sensitive to sexual harassment as an issue, engaging investigators who are trained in understanding the dynamics of sexual violence and harassment, to conduct the investigation. Sexual harassment investigations will not be conducted by people without specialist training.

The reporter may prefer to talk to an investigator of the same sex in some sensitive cases and this preference should be respected.

No other parties should interfere improperly with this process for managing reports of sexual harassment at any stage.

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.

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. The most major and serious instances of sexual harassment are more likely to occur when perpetrators observe a generally accepting climate for sexism and micro-aggressions that go unreported or attract no sanctions.

After investigating the report, trustees 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

- temporary or permanent exclusion from certain events, locations and activities

- 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. Suitable deterrent sanctions will be applied to ensure that incidents of sexual harassment are not treated as trivial. Certain serious cases, including physical violence, will result in the immediate dismissal of the harasser and will be reported to the police.

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

The investigator will ensure that the recommended disciplinary and or remedial action is carried out. Any failure by the investigator to ensure that this is completed in a timely manner is in itself likely to constitute misconduct.

Wherever possible, JustUs will try to ensure the reporter and the alleged harasser are not required to work together while the report is under investigation. Any perception that a reporter is being punished, or victimised, by being moved or otherwise inconvenienced during the investigation, should be guarded against. In a serious case, the person against whom the report has been made may be suspended while investigation and any subsequent disciplinary procedure are undertaken. Such suspension will be for as short a time as possible.

If a harasser is going to continue or return to a working relationship with the reporter or victim, then JustUs is responsible for taking steps to improve working relationships and supporting their employees whatever the outcome.

Both the reporter and the alleged harasser have a statutory right to be accompanied to a formal grievance hearing. They also have the right to be accompanied to any meeting relating to the complaint.

There could, very rarely, be circumstances where certain information may need to be shared with other people (such as police or another employer) because of a duty of care or safeguarding responsibilities, as a result of concerns identified whether in an informal or formal process. In these cases, permission will be sought and, if not granted, the risk of potential harm to the reporter and any others will be carefully considered. The wishes of reporting parties are respected and prioritised as a key principle and only minimal information would be shared if absolutely necessary, after careful discussion.

A finding that an employee has been sexually harassed by a third party (someone who is not an employee or a client) should lead to JustUs taking action to reduce or eliminate the harasser's opportunity to interact with the victim and or other employees or workers, such as by banning

them from activities or premises and enforcing the ban. This action would include a formal notification being made to that person and kept on record. It may be necessary and or proportionate (a legitimate purpose / substantial public interest) to inform the harasser's own employer of the outcome of the investigation, to assist them with their own duty of care to others. In the case of the harasser being a client it may be necessary to cease the person's homeless support.

Legal action

If an act of sexual harassment may also amount to a criminal offence JustUs will 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, JustUs will follow the wishes of the reporter.

If formal or informal steps do not solve the problem, you might want to take a case to an employment tribunal. A claim to an employment tribunal must usually be made three months less one day from when the incident occurred. Employment tribunals can consider requests for extended time so you should not be deterred if you are outside of the time limit, particularly if the delay was due to JustUs investigation mechanisms. The employment tribunal will expect you to have tried to resolve the problem internally and any records you have kept will be considered as part of the hearing. Resignation might be the last resort but make sure you have tried all other ways to resolve the situation. If you resign and make a claim to the employment tribunal, you will need to ensure you have met any employment qualifying requirements. You should take advice about this.

Appeals

Both the reporter and the alleged harasser may appeal an outcome, on limited grounds:

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

JustUs will consider:

- Length of time permitted after notification of any outcome for an appeal to be made.
- How an appeal will be made and to whom.
- Any request for appeal must state who it is from, that it is a request for an appeal and the reason for the request.
- A specially trained investigator must be appointed to review the case and decide whether there are grounds for appeal.
- If there are grounds, then to decide undertaking any additional investigation only if that is necessary and communicating the findings and changes or additions to

recommended sanctions and or remedies. The decision of the person hearing the appeal is final.

Support for staff who have experienced sexual harassment

JustUs commits to making sure that reasonable adjustments are made for the reporter, in terms of an individual risk and needs assessment that might include time off work for counselling or to take legal advice.

If you have experienced sexual harassment at work, you can contact the following organisations for free and confidential support and advice:

- A trade union
- 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)

This policy will be reviewed annually.

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Next review: June 2027

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