

GAUCHO

SEXUAL HARASSMENT POLICY

1. Policy statement

- 1.1 We are 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 on business trips, or at work-related events or social functions, or on social media.
- 1.2 Sexual harassment or victimisation of any member of staff, or anyone that staff encounter during the course of their work, is unlawful and will not be tolerated.
- 1.3 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 is encouraged to report it 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.
- 1.4 Sexual harassment is taken extremely seriously, and it may result in disciplinary action up to and including summary dismissal.

2. About this policy

- 2.1 The purpose of this policy is to set out a framework for line managers to deal with any sexual harassment that occurs by staff (which may include consultants, contractors and agency workers) and also by third parties such as customers, suppliers or visitors to our premises.
- 2.2 This policy does not form part of any contract of employment or contract to provide services, and we may amend it at any time.

3. Who does this policy apply to?

- 3.1 This policy applies to all employees, officers, consultants, self-employed contractors, casual workers, agency workers, volunteers and interns.

GAUCHO

4. Who is responsible for this policy?

- 4.1 The board of directors has overall responsibility for the effective operation of this policy but has delegated responsibility for overseeing its implementation to the People Director. Suggestions for change should be reported to the People Director.
- 4.2 The People Department has day-to-day responsibility for this policy, and you should refer any questions about this policy to them in the first instance.
- 4.3 This policy is reviewed annually by the People Department who will also monitor its effectiveness.

5. What is sexual harassment?

- 5.1 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.
- 5.2 The conduct need not be sexually motivated; it only need be sexual in nature.
- 5.3 Sexual harassment 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.
- 5.4 Sexual harassment may include, for example:
 - (a) Unwanted physical conduct or "horseplay", including touching, hugging, massaging, kissing, pinching, pushing and grabbing.
 - (b) Unwelcome sexual advances or suggestive behaviour.
 - (c) Making promises in return for sexual favours.
 - (d) Spreading sexual rumours about a person.
 - (e) Intrusive questions about a person's private or sex life or a person discussing their own sex life.
 - (f) Sexual posts or contact on social media.
 - (g) Suggestive looks, staring and jeering.
 - (h) Sexual gestures, comments or jokes.
 - (i) 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).

GAUCHO

- (j) Commenting in a suggestive or objectifying manner on someone's physical appearance.
 - (k) Offensive emails, text messages or social media content.
- 5.5 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.
- 5.6 Victimization 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:
- (a) Bringing proceedings under the Equality Act 2010.
 - (b) Giving evidence or information in connection with proceedings under the Equality Act 2010.
 - (c) Doing any other thing for the purposes of or in connection with the Equality Act 2010.
 - (d) Alleging that a person has contravened the Equality Act 2010.
- 5.7 Victimization may include, for example:
- (a) Denying someone an opportunity because it is suspected that they intend to make a complaint about sexual harassment.
 - (b) Excluding someone because they have raised a grievance about sexual harassment.
 - (c) Failing to promote someone because they accompanied another staff member to a grievance meeting.
 - (d) Dismissing someone because they gave evidence on behalf of another staff member at an employment tribunal hearing.
- 5.8 Sexual harassment and victimization are unlawful and will not be tolerated. They may lead to disciplinary action up to and including summary dismissal if they are committed:
- (a) In a work situation.
 - (b) During any situation related to work, such as at a social event with colleagues.
 - (c) Against a colleague or other person connected to us outside of a work situation, including on social media.
 - (d) Against anyone outside of a work situation where the incident is relevant to your suitability to carry out your role.

GAUCHO

- 5.9 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.
- 5.10 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.
- 5.11 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 have come into contact during the course of their employment. Third-party harassment could include, for example, unwelcome sexual advances from a customer or supplier visiting our premises, or where a person is visiting a customer or supplier's premises or other location in the course of their employment.
- 5.12 Third-party sexual harassment can result in legal liability, and it will not be tolerated. All staff are encouraged to report any third-party harassment they are a victim of, or that they witness, in accordance with this policy.
- 5.13 We will take active steps to try to prevent third-party sexual harassment of staff. These steps may include [warning notices to customers or recorded messages at the beginning of telephone calls.
- 5.14 If any third-party harassment of our staff occurs, we will take steps to remedy any complaints and to prevent it happening again. These steps may include [warning the harasser about their behaviour, escalating the matter to the person that supplies the harasser (where relevant), implementing arrangements which seek to avoid further contact with the harasser (such as banning them from our premises), reporting any criminal acts to the police and sharing information with other sites of the business.
- 5.15 Any sexual harassment by a member of staff against a third party is taken seriously and may lead to disciplinary action up to and including summary dismissal. This could include, for example, the sexual harassment of a customer that our own staff member comes into contact within the course of their duties.

6. If you are being sexually harassed: informal steps

- 6.1 If you are being sexually harassed, you should consider whether you feel able to raise the problem informally with the person responsible. If so, you should explain clearly to them that their behaviour is not welcome or makes you uncomfortable and that you want it to stop.

GAUCHO

- 6.2 If this is too difficult, you should speak to your line manager or the People Department, 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 People Department. If this does not resolve the issue, you should follow the formal procedure below.
- 6.3 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 People Department, informally for confidential advice.
- 6.4 If informal steps are not appropriate, or have been unsuccessful, you should follow the formal procedure set out below.

7. Raising a formal complaint

- 7.1 If you wish to make a formal complaint about sexual harassment, you should submit it in writing to your line manager. If the matter concerns your line manager, or you do not feel comfortable reporting the complaint to your line manager, you should refer your formal complaint to the next level of authority or the People Department.
- 7.2 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.
- 7.3 If you wish to make a formal complaint about victimisation, you should submit it in writing to your line manager. If the matter concerns your line manager, or you do not feel comfortable reporting the complaint to your line manager, you should refer your formal complaint to the next level of authority or the People Department.
- 7.4 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.
- 7.5 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. For example, it may be appropriate to pursue matters independently where the alleged harassment is so serious that there is an immediate risk to a person's safety.

GAUCHO

Where we do decide to pursue matters independently, we will explain our decision and any safeguards that we propose to implement.

7.6 If you have immediate concerns about your or another person's safety outside of work, you should contact the police immediately.

8. If you witness sexual harassment or victimisation

8.1 Staff who witness sexual harassment or victimisation are encouraged to take appropriate steps to address it. Depending on the circumstances, this could include:

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

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

9. Formal investigations

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

9.2 We will arrange a meeting with you, usually within one week of receiving your complaint, so that you can give your account of events. You may be accompanied by a colleague or a trade union representative of your choice, who must respect the confidentiality of the investigation.

9.3 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 may be accompanied to the meeting. They have a right to be told the details of the allegations against them, so that they can respond.

9.4 Where your complaint is about someone other than an employee, such as a 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

GAUCHO

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.

- 9.5 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.
- 9.6 It may be necessary to interview witnesses to any of the incidents mentioned in your complaint. If so, the importance of confidentiality will be emphasised to them.
- 9.7 At the end of the investigation, the investigator will submit a report to a senior manager. The senior manager will arrange a meeting with you, usually within a week of receiving the report, in order to discuss the outcome and what action, if any, will be taken. You have the right to bring a colleague or a trade union representative to the meeting. A copy of the report and the manager's findings will be given to you and to the alleged harasser.

10. Action following the investigation

- 10.1 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.
- 10.2 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.
- 10.3 Any staff member who deliberately provides false information in bad faith 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.

11. Appeals

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

GAUCHO

11.2 We will hold an appeal meeting, normally within one week of receiving your written appeal. Where practicable, the appeal hearing will be conducted by a manager who has not been previously involved in the case and where practicable 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 or trade union representative to the meeting.

11.3 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.

12. Protection and support for those involved

12.1 Staff who make complaints, report that they have witnessed wrongdoing, or who participate in any investigation in good faith 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.

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

12.3 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.

12.4 We offer access to confidential counselling, which is available on request for anyone affected by, or accused of, sexual harassment.

12.5 [Support and guidance can also be obtained from your trade union should that be applicable and the following external services:

(a) [The Equality Advisory and Support Service (www.equalityadvisoryservice.com).]

(b) [Protect (www.protect-advice.org.uk).]

(c) [Victim support (www.victimsupport.org.uk).]

(d) Rape crisis (www.rapecrisis.org.uk).

(e) Rights of women (England and Wales) (www.rightsofwomen.org.uk).

(f) [Scottish Women's Rights Centre (Scotland) (www.scottishwomensrightscentre.org.uk).

GAUCHO

(g) [LOCAL ADVICE CENTRES]

- 12.6 You can also report concerns about sexual harassment through our “Let Us Know” reporting system. This allows concerns regarding sexual harassment to be raised either by email address below:

Letusknow@rarerestaurants.co.uk

- 12.7 Our “Let Us Know” inbox and mailbox will be regularly monitored by our People Director and Head of People. It allows concerns about sexual harassment to be raised on an anonymous basis, where permitted by law. Whilst this is an available reporting tool, we are mindful that anonymous complaints can be difficult to investigate and resolve effectively. We therefore encourage people to raise concerns on a non-anonymous basis wherever possible and are committed to protecting and supporting staff when they do so].

13. Reporting outcomes, confidentiality and record-keeping

- 13.1 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.
- 13.2 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.
- 13.3 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.