

Sexual violence and sexual harassment Policy

Adapted from the DFE guidance released in September 2021

“Sexual violence and sexual harassment between children in schools and colleges Advice for governing bodies, proprietors, headteachers, principals, senior leadership teams and designated safeguarding leads.”

Sexual violence and Sexual harassment

1. What is meant by sexual violence and sexual harassment between children?

Sexual violence and sexual harassment can occur between two children of any sex. They can also occur through a group of children sexually assaulting or sexually harassing a single child or group of children.

Children who are victims of sexual violence and sexual harassment will likely find the experience stressful and distressing. This will, in all likelihood, adversely affect their educational attainment.

We are clear that sexual violence and sexual harassment is not acceptable, will never be tolerated and is not an inevitable part of growing up. We will always challenge behaviour or language that seeks to normalise sexual harassment or violence in school. Sanctions will be applied in accordance with our behaviour policy.

2. What is the definition of sexual violence?

For the purpose of this policy, when referring to sexual violence we are referring to sexual offences under the Sexual Offences Act 2003 as described below:

Rape: A person (A) commits an offence of rape if: he intentionally penetrates the vagina, anus or mouth of another person (B) with his penis, B does not consent to the penetration and A does not reasonably believe that B consents.

Assault by Penetration: A person (A) commits an offence if: s/he intentionally penetrates the vagina or anus of another person (B) with a part of her/his body or anything else, the penetration is sexual, B does not consent to the penetration and A does not reasonably believe that B consents.

Sexual Assault: A person (A) commits an offence of sexual assault if: s/he intentionally touches another person (B), the touching is sexual, B does not consent to the touching and A does not reasonably believe that B consents.

Harmful sexual behaviour (HSB)

Children's sexual behaviour exists on a wide continuum, from normal and developmentally expected to inappropriate, problematic, abusive and violent. Problematic, abusive and violent sexual behaviour is developmentally inappropriate and may cause developmental damage. A useful umbrella term is "harmful sexual behaviour" (HSB). The term has been widely adopted in child protection and is used in this advice. HSB can occur online and/or face to face and can also occur

simultaneously between the two. HSB should be considered in a child protection context.

3. What is consent?

Consent is about having the freedom and capacity to choose. Consent to sexual activity may be given to one sort of sexual activity but not another, e.g. to vaginal but not anal sex or penetration with conditions, such as wearing a condom. Consent can be withdrawn at any time during sexual activity and each time activity occurs. Someone consents to vaginal, anal or oral penetration only if s/he agrees by choice to that penetration and has the freedom and capacity to make that choice.

- a child under the age of 13 can never consent to any sexual activity
- the age of consent is 16
- sexual intercourse without consent is rape

4. What is Sexual harassment?

4.1 For the purpose of this advice, when referring to sexual harassment we mean 'unwanted conduct of a sexual nature' that can occur online and offline and both inside and outside of school/college. When we reference sexual harassment, we do so in the context of child-on-child sexual harassment. Sexual harassment is likely to: violate a child's dignity, and/or make them feel intimidated, degraded or humiliated and/or create a hostile, offensive or sexualised environment.

4.2 Whilst not intended to be an exhaustive list, sexual harassment can include:

- sexual comments, such as: telling sexual stories, making lewd comments, making sexual remarks about clothes and appearance and calling someone sexualised names;
- sexual "jokes" or taunting;
- physical behaviour, such as: deliberately brushing against someone, interfering with someone's clothes (schools and colleges should be considering when any of this crosses a line into sexual violence - it is important to talk to and consider the experience of the victim) and displaying pictures, photos or drawings of a sexual nature; and
- online sexual harassment. This may be standalone, or part of a wider pattern of sexual harassment and/or sexual violence. It may include:
- consensual and non-consensual sharing of nude and semi-nude images and/or videos¹⁹. As set out in UKCIS Sharing nudes and semi-nudes: advice for education settings working with children and young people (which provides detailed advice for schools and colleges) taking and sharing nude photographs of U18s is a criminal offence;
- sharing of unwanted explicit content;

- upskirting (is a criminal offence²⁰);
- sexualised online bullying;
- unwanted sexual comments and messages, including, on social media;
- sexual exploitation; coercion and threats.

5. Preventing child on child sexual violence and sexual harassment

Our basic safeguarding principle is: if a child has been harmed, is in immediate danger, or is at risk of harm then a referral will be made to children's social care. A social worker should respond to the referrer within one working day to explain what action they will be taking. Parents will usually be informed that we are making a referral to children's social care; however, this too is on a case-by-case basis. It may be that we have assessed the situation and believe that a referral is needed without parental knowledge in order to safeguard students involved. Advice from the local safeguarding team will be sought where necessary.

Once a referral is processed children's social care will consider if early help, section 17 and/or 47 statutory assessments are appropriate and we will support in an early help assessment, child protection enquiry, strategy discussion and child protection conference.

6. The role of education in prevention

6.1 All academy staff will complete regular safeguarding training which contains updates to the KCSiE and other relevant safeguarding issues. Safeguarding issues which arise in between planned safeguarding training will be relayed to staff throughout the year. All staff will complete a Level 1 safe guarding qualification at least every two years. The DSL and Safeguarding coordinator will additionally complete the Local Safeguarding Board "safeguarding leaders" training.

6.2 The PHSE curriculum is delivered to all students attending the academy and the Relationships and Sex Education (RSE) topics included in this curriculum set out to tackle such issues as;

- healthy and respectful relationships;
- what respectful behaviour looks like;
- consent;
- stereotyping, equality;
- body confidence and self-esteem;
- prejudiced behaviour;
- that sexual violence and sexual harassment is always wrong;
- addressing cultures of sexual harassment.

6.3 Specialist external education providers in sexual health will be considered where appropriate to work alongside the academy PHSE programme, particularly in relation to the sexual health topics in KS4.

7. Responding to reports of sexual violence and sexual harassment

7.1 It is important to note that children may not find it easy to tell staff about their abuse verbally. Children can show signs or act in ways that they hope adults will notice and react to. In some cases, the victim may not make a direct report. For example, a friend may make a report or a member of school or college staff may overhear a conversation that suggests a child has been harmed, or a child's own behaviour might indicate that something is wrong. As per Part one of Keeping children safe in education, if staff have any concerns about a child's welfare, they should act on them immediately rather than wait to be told.

7.2 It is essential that all victims are reassured that they are being taken seriously, regardless of how long it has taken them to come forward and that they will be supported and kept safe. Abuse that occurs online or outside of the school or college should not be downplayed and should be treated equally seriously. A victim should never be given the impression that they are creating a problem by reporting sexual violence or sexual harassment. Nor should a victim ever be made to feel ashamed for making a report or their experience minimised.

7.3 As with all safeguarding concerns, it is important that in such instances staff take appropriate action in accordance with the academy child protection policy. They should not assume that someone else is responding to any incident or concern. If in any doubt, they should speak to the designated safeguarding lead or safeguarding coordinator.

7.4 As per Part one of Keeping children safe in education, if staff have any concerns about a child's welfare, they should act on them immediately rather than wait to be told.

7.5 The staff member to whom the disclosure has been made should follow the guidance they have received regarding the correct way to respond to a disclosure, which includes;

- never promise confidentiality as it is very likely that it will be in the best interests of the victim to seek advice and guidance from others in order to provide support and engage appropriate agencies.
- Take a note of the time, date and content of the discussion.
- Never ask leading questions
- Report the disclosure immediately to the safeguarding team.

7.6 The DSL or Safeguarding co-ordinator will decide on the next course of action which may include contacting children's social care and/or the police.

8. Anonymity

8.1 Where an allegation of sexual violence or sexual harassment is progressing through the criminal justice system, staff working with the victim should be aware of anonymity, witness support and the criminal process in general so they can offer support and act appropriately.

8.2 As a matter of effective safeguarding practice, the academy will do all we reasonably can to protect the anonymity of any children involved in any report of sexual violence or sexual harassment. Amongst other things, this will mean carefully considering, based on the nature of the report, which staff should know about the report and any support that will be put in place for the children involved.

9. Risk Assessment

9.1 When there has been a report of sexual violence, the designated safeguarding lead or safeguarding coordinator will make an immediate risk and needs assessment. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case-by-case basis.

9.2 The risk and needs assessment should consider:

- the victim, especially their protection and support;
- whether there may have been other victims,
- the alleged perpetrator(s); and
- all the other children (and, if appropriate, adult students and staff) at the school or college, especially any actions that are appropriate to protect them from the alleged perpetrator(s), or from future harms.

9.3 Risk assessments should be recorded (written or electronic) and should be kept under review.

10. Action following a report of sexual violence and/or sexual harassment

10.1 Any report of sexual violence and/or sexual harassment both online and offline will be carefully considered, including those that have happened outside of the academy. The designated safeguarding lead or safeguarding coordinator is likely to have a complete safeguarding picture and be the most appropriate person to advise on the schools or college's initial response.

10.2 Important considerations will include:

- the wishes of the victim in terms of how they want to proceed. This is especially important in the context of sexual violence and sexual harassment. Victims should be given as much control as is reasonably possible over decisions regarding how any investigation will be progressed and any support that they will be offered. This will however need to be balanced with the school or college's duty and responsibilities to protect other children;

- the nature of the alleged incident(s), including: whether a crime may have been committed and/or whether HSB has been displayed (as set out on paragraphs 18- 22);
- the ages of the children involved;
- the developmental stages of the children involved;
- any power imbalance between the children. For example, is an alleged perpetrator significantly older, more mature or more confident? Does the victim have a disability or learning difficulty?;
- if the alleged incident is a one-off or a sustained pattern of abuse (sexual abuse can be accompanied by other forms of abuse and a sustained pattern may not just be of a sexual nature);
- that sexual violence and sexual harassment can take place within intimate personal relationships between peers;
- are there ongoing risks to the victim, other children, adult students or school or college staff?; and
- other related issues and wider context, including any links to child sexual exploitation and child criminal exploitation.

10.3 The starting point regarding any report should always be that there is a zero tolerance approach to sexual violence and sexual harassment and it is never acceptable and it will not be tolerated. It is especially important, not to pass off any sexual violence or sexual harassment as 'banter', 'just having a laugh', part of growing up' or 'boys being boys' as this can lead to a culture of unacceptable behaviours and an unsafe environment for children.

11. Options to manage the disclosure

There are **four** likely scenarios to consider when managing any reports of sexual violence and/or sexual harassment. It is particularly important to look out for potential patterns of concerning, problematic or inappropriate behaviour:

1. Manage internally •

- In some cases of sexual harassment, for example, one-off incidents, the academy may take the view that the children concerned are not in need of early help or require referrals to be made to statutory services and that it would be appropriate to handle the incident internally, perhaps through utilising their behaviour and bullying policies and by providing pastoral support.
- Whatever the response, it should be underpinned by the principle that there is a zero-tolerance approach to sexual violence and sexual harassment and it is never acceptable and will not be tolerated.
- All concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

2. Early help

- In line with point 1 above, the academy may decide that the children involved do not require referral to statutory services but may benefit from early help. Early help means providing support as soon as a problem emerges, at any point in a child's life. Providing early help is more effective in promoting the welfare of children than reacting later. Early help can be particularly useful to address nonviolent HSB and may prevent escalation of sexual violence. It is particularly important that the designated safeguarding lead (and their deputies) know what the Early Help process is and how and where to access support. •
- Full details of the early help process are in Chapter 1 of Working Together to Safeguard Children.
- Multi-agency early help will work best when placed alongside strong school or college policies, preventative education as set out in Part three of this advice and engagement with parents and carers.
- Early help and the option to manage a report internally do not need to be mutually exclusive: a school could manage internally and seek early help for both the victim and perpetrator(s).

3. Referrals to children's social care

- Where a child has been harmed, is at risk of harm, or is in immediate danger, the academy will make a referral to local children's social care.
- At the point of referral to children's social care, we will generally inform parents or carers, unless there are compelling reasons not to (if informing a parent or carer is going to put the child at additional risk). Any such decision should be made with the support of children's social care.
- If a referral is made, children's social care will then make enquiries to determine whether any of the children involved are in need of protection or other services.
- Where statutory assessments are appropriate, the academy (especially the designated safeguarding lead or safeguarding coordinator) should work alongside, and cooperate with, the relevant lead social worker. Collaborative working will help ensure the best possible package of coordinated support is implemented for the victim and, where appropriate, the alleged perpetrator(s) and any other children that require support.
- Whatever the response, it should be under-pinned by the principle that there is a zero-tolerance approach to sexual violence and sexual harassment, and it is never acceptable and will not be tolerated.
 - All concerns, discussions, decisions, and reasons for decisions should be recorded (written or electronic).

4. Reporting to the police

- Any report to the police will generally be in parallel with a referral to children's social care (as above).

- It is important that the designated safeguarding lead (and their deputies) are clear about the local process for referrals and follow that process.
- Where a report of rape, assault by penetration or sexual assault is made, the starting point is this should be passed on to the police. Whilst the age of criminal responsibility is ten, if the alleged perpetrator is under ten, the starting principle of reporting to the police remains. The police will take a welfare, rather than a criminal justice, approach.

12. Unsubstantiated, unfounded, false or malicious reports

12.1 If a report is determined to be unsubstantiated, unfounded, false or malicious, the designated safeguarding lead should consider whether the child and/or the person who has made the allegation is in need of help or may have been abused by someone else and this is a cry for help. In such circumstances, a referral to children's social care may be appropriate.

12.2 If a report is shown to be deliberately invented or malicious, the school or college should consider whether any disciplinary action is appropriate against the individual who made it as per their own behaviour policy.

13. Discipline and the alleged perpetrator(s)

With regard to the alleged perpetrator(s), advice on behaviour and discipline in schools is clear that teachers can discipline pupils whose conduct falls below the standard which could be reasonably expected of them. Disciplinary action can be taken whilst other investigations by the police and/or children's social care are ongoing. The fact that another body is investigating or has investigated an incident does not in itself prevent the academy from coming to its own conclusion, on the balance of probabilities, about what happened, and imposing a penalty accordingly. This is a matter for the school and should be carefully considered on a case-by-case basis. The designated safeguarding lead or safeguarding coordinator should take a leading role. The academy should consider if, by taking any action, it would prejudice an investigation and/or any subsequent prosecution. Careful liaison with the police and/or children's social care should help the academy make a determination. It will also be important to consider whether there are circumstances that make it unreasonable or irrational for the academy to reach its own view about what happened while an independent investigation is considering the same facts.

14. Working with parents and carers

The academy will, in most instances, engage with both the victim's and the alleged perpetrator's parents or carers when there has been a report of sexual violence (this might not be necessary or proportional in the case of sexual harassment and should be considered on a case-by-case basis). The exception to this rule is if there is a reason to believe informing a parent or carer will put a child at additional risk. The academy should carefully consider what information they provide to the respective

parents or carers about the other child involved and when they do so. In some cases, children's social care and/or the police will have a very clear view and it will be important for the school or college to work with relevant agencies to ensure a consistent approach is taken to information sharing.

15. Safeguarding other children

15.1 Consideration should be given to supporting children who have witnessed sexual violence, especially rape and assault by penetration. Witnessing such an event is likely to be traumatic and support may be required. We will signpost agencies and support services available where need.

15.2 Following any report of sexual violence or sexual harassment, it is likely that some children will take "sides". The academy will do all we can to ensure both the victim and alleged perpetrator, and any witnesses, are not being bullied or harassed. Social media is very likely to play a central role in the fall out from any incident or alleged incident. There is the potential for contact between victim and alleged perpetrator and a very high likelihood that friends from either side could well harass the victim or alleged perpetrator online. Any evidence we have of students using social media inappropriately will be sanctioned according to our Behaviour and Bullying policies.