



Department  
for Education

# **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**

**May 2018**

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# Summary

## About this advice

This is advice provided by the Department for Education (the department). Its focus is child on child sexual violence and sexual harassment at schools and colleges. The advice covers children of **all ages**, from the primary through secondary stage and into colleges. For the purposes of this advice, a child is anyone under the age of 18. Whilst the focus of the advice is on protecting and supporting children, schools and colleges should of course protect any adult students and engage with adult social care, support services and the police as required.

The advice sets out what sexual violence and sexual harassment is, how to minimise the risk of it occurring and what to do when it does occur, or is alleged to have occurred.

The advice highlights best practice and cross-references other advice, statutory guidance and the legal framework. It is for individual schools and colleges to develop their own policies and procedures. It is important that policies and procedures are developed in line with their legal obligations, including the Human Rights Act 1998 and the Equality Act 2010, especially the Public Sector Equality Duty.<sup>1</sup> It is important that schools and colleges consider how to reflect sexual violence and sexual harassment in their whole school or college approach to safeguarding and in their child protection policy.

The advice provides case studies. These are not intended to offer a step-by-step guide, but to provide an indication of some of the many options that are available.

The department has updated this advice in line with the revised statutory guidance Keeping Children Safe in Education. We will continue to keep the advice under review, particularly as we develop our approach to Relationship Education, Relationships and Sex Education (RSE) and Personal Social Health and Economic (PSHE) education.<sup>2</sup>

## Who this advice is for

This advice is for:

- Governing bodies of maintained schools and colleges;<sup>3</sup>

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<sup>1</sup> The PSED is a legal requirement for schools and colleges that are public bodies.

<sup>2</sup> [Department statement on RSE and PSHE](#).

<sup>3</sup> 'college' means further education colleges and sixth-form colleges as established under the Further and Higher Education Act 1992 and institutions designated as being within the further education sector under section 28 of the Further and Higher Education Act 1992 ('designated institutions').

- Proprietors<sup>4</sup> of independent schools (including academies, free schools and alternative provision academies) and non-maintained special schools;
- Management committees of pupil referral units (PRUs);
- Headteachers, Principals and Senior Leadership Teams; and
- Designated Safeguarding Leads (and their deputies).

## Other advice and guidance

This advice should not be read in isolation. It is important for schools and colleges to consider other relevant advice and guidance, including the following (which is not intended to be an exhaustive list), as part of their approach to protecting children from sexual violence and sexual harassment:

- [Exclusions From Maintained Schools, Academies and PRUs](#) (statutory guidance)
- [Keeping Children Safe in Education](#) (statutory guidance)
- [Sex and Relationship Education](#) (statutory guidance for maintained schools and academies)
- [Working Together to Safeguard Children](#) (statutory guidance)
- [Behaviour and Discipline in Schools](#) (advice for schools)
- [Children Missing Education](#) (advice for schools)
- [Cyberbullying](#) (advice for schools)
- [Equality Act 2010](#) and [Public Sector Equality Duty](#) (advice for schools)
- [Equality Act 2010 Technical Guidance](#) (advice for further and higher education providers)
- [Mental Health and Behaviour in Schools](#) (advice for schools)
- [Preventing and Tackling Bullying](#) (advice for schools)
- [The Equality and Human Rights Commission](#) (provides advice on avoiding discrimination in a variety of educational contexts)
- [UKCCIS Sexting advice](#) (advice for schools and colleges)

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<sup>4</sup> In the case of academies and free school trusts, the proprietor will be the trust.

## **Victims and alleged perpetrators**

There are many different ways to describe children who have been subjected to sexual violence and/or sexual harassment and many ways to describe those who are alleged to have carried out any form of abuse.

For the purposes of this advice, we use the term 'victim'. It is a widely recognised and understood term. It is important that schools and colleges recognise that not everyone who has been subjected to sexual violence and/or sexual harassment considers themselves a victim or would want to be described in this way. Ultimately, schools and colleges should be conscious of this when managing any incident and be prepared to use any term with which the individual child is most comfortable.

For the purpose of this advice we use the term 'alleged perpetrator' and where appropriate 'perpetrator'. These are widely used and recognised terms and the most appropriate to aid effective drafting of advice. However, schools and colleges should think very carefully about terminology, especially when speaking in front of children. As above, the use of appropriate terminology will be for schools and colleges to determine, as appropriate, on a case-by-case basis.

# Part one: What do we mean by sexual violence and sexual harassment between children?

## Context

1. Sexual violence and sexual harassment can occur between two children of **any age and sex**. It can also occur through a group of children sexually assaulting or sexually harassing a single child or group of children.
2. 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. Sexual violence and sexual harassment exist on a continuum and may overlap, they can occur online and offline (both physically and verbally) and are never acceptable. It is important that **all** victims are taken seriously and offered appropriate support.
3. Reports of sexual violence and sexual harassment are extremely complex to manage. It is essential that victims are protected, offered appropriate support and every effort is made to ensure their education is not disrupted. It is also important that other children, adult students and school and college staff are supported and protected as appropriate.

## The evidence

4. The evidence highlights why it is important that all school and college staff have an understanding of what sexual violence and sexual harassment might look like and what to do if they have a concern or receive a report. Whilst **any** report of sexual violence or sexual harassment should be taken seriously, staff should be aware it is more likely that girls will be the victims of sexual violence and sexual harassment and more likely it will be perpetrated by boys.

- The Women and Equalities committee (WEC) found a number of large scale surveys find girls consistently reporting high levels of sexual harassment and sexual violence in schools and colleges.<sup>5</sup>
- Girlguiding's Girls' Attitudes Survey 2017 found 64% of girls aged 13-21 had experienced sexual violence or sexual harassment at school or college in the past year. This included 39% having their bra strap pulled by a boy and 27% having their skirts pulled up within the last week.<sup>6</sup>

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<sup>5</sup> [WEC report- paragraph 13](#)

<sup>6</sup> [Girlguiding's Girls' Attitude Survey 2017](#)

- Over a third (37%) of female students and 6% of male students at mixed-sex schools have personally experienced some form of sexual harassment at school.<sup>7</sup>
- Almost a quarter (24%) of female students and 4% of male students at mixed-sex schools have been subjected to unwanted physical touching of a sexual nature while at school.<sup>8</sup>
- Girls (14%) were significantly more likely than boys (7%) to report that their partner had pressured them to share nude images of themselves in the last year.<sup>9</sup>
- Girls are significantly more likely to be victimised with unwanted sexual messages and images from their peers online, with 31% of female respondents aged 13-17 years saying they had experienced this in the last year compared to 11% of male respondents.<sup>10</sup>
- In 2016/17 the NSPCC childline service provided over 3000 counselling sessions to children and young people concerned about being sexually assaulted by their peers.<sup>11</sup>

### **What schools and colleges should be aware of**

5. Schools and colleges should be aware of the importance of:

- making clear that sexual violence and sexual harassment is not acceptable, will never be tolerated and is not an inevitable part of growing up;
- not tolerating or dismissing sexual violence or sexual harassment as “banter”, “part of growing up”, “just having a laugh” or “boys being boys”;
- challenging behaviour (potentially criminal in nature), such as grabbing bottoms, breasts and genitalia and flicking bras and lifting up skirts. Dismissing or tolerating such behaviours risks normalising them; and
- understanding that all of the above can be driven by wider societal factors beyond the school and college, such as everyday sexist stereotypes and everyday sexist language. This is why a whole school/college approach (especially preventative education) as described in Part 3 of this advice is important.

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<sup>7</sup> [NEU and UKfeminista Report It's Just Everywhere](#)

<sup>8</sup> [NEU and UKfeminista Report It's Just Everywhere](#)

<sup>9</sup> [Project deSHAME: Young people's experiences of online sexual harassment](#)

<sup>10</sup> [Project deSHAME: Young people's experiences of online sexual harassment](#)

<sup>11</sup> [NSPCC Helplines Report](#)

6. Children with Special Educational Needs and Disabilities (SEND) are three times more likely to be abused than their peers.<sup>12</sup> Additional barriers can sometimes exist when recognising abuse in SEND children. These can include:

- assumptions that indicators of possible abuse such as behaviour, mood and injury relate to the child's disability without further exploration;
- the potential for children with SEND being disproportionately impacted by behaviours such as bullying and harassment, without outwardly showing any signs; and
- communication barriers and difficulties overcoming these barriers.

7. Any reports of abuse involving children with SEND will therefore require close liaison with the Designated Safeguarding Lead (or deputy) and the SENCO or the named person with oversight for SEN in a college.

8. Children who are lesbian, gay, bi, or trans (LGBT) can be targeted by their peers. In some cases, a child who is perceived by their peers to be LGBT (whether they are or not) can be just as vulnerable as children who identify as LGBT.

9. Whilst not the focus of this advice, schools and colleges should be aware that their staff can be victims of sexual violence and sexual harassment. Schools and colleges should have arrangements in place to protect their staff from such abuse, including clear reporting and support mechanisms.

## Sexual violence

10. It is important that schools and colleges are aware of sexual violence and the fact children can, and sometimes do, abuse their peers in this way. When referring to sexual violence in this advice, we do so in the context of child on child sexual violence.

11. For the purpose of this advice, when referring to sexual violence we are referring to sexual offences under the Sexual Offences Act 2003<sup>13</sup> 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

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<sup>12</sup> Jones, L et al. (2012) Prevalence and risk of violence against children with disabilities: a systematic review and meta-analysis of observational studies. The Lancet July 2012.

<sup>13</sup> [Legislation.gov.uk](http://legislation.gov.uk)



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.

12. **What is consent?**<sup>14</sup> 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.<sup>15</sup>

- a child under the age of 13 can never consent to any sexual activity;<sup>16</sup>
- the age of consent is 16;<sup>17</sup>
- sexual intercourse without consent is rape.

## Sexual harassment

13. 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. 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.

14. 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;

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<sup>14</sup> It is important school and college staff (and especially designated safeguarding leads and their deputies) understand consent. This will be especially important if a child is reporting they have been raped. More information: [here](#)

<sup>15</sup> [PSHE Teaching about consent](#) from the PSHE association provides advice and lesson plans to teach consent at Key stage 3 and 4.

<sup>16</sup> See [CPS Guidance](#) which explains why under 13s are given additional protections in law due to their age and vulnerability.

<sup>17</sup> It is important to differentiate between consensual sexual activity between children of a similar age and that which involves any power imbalance, coercion or exploitation. Due to their additional training, the designated safeguarding lead (or deputy) should be involved and generally speaking leading the school or college response. If in any doubt, they should seek expert advice.

- 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.<sup>18</sup> It may include:
  - non-consensual sharing of sexual images and videos. ([UKCCIS](#) sexting advice provides detailed advice for schools and colleges);
  - sexualised online bullying;
  - unwanted sexual comments and messages, including, on social media; and
  - sexual exploitation; coercion and threats.

15. It is important that schools and colleges consider sexual harassment in broad terms. Sexual harassment (as set out above) creates an atmosphere that, if not challenged, can normalise inappropriate behaviours and provide an environment that may lead to sexual violence.

## Harmful sexual behaviour

16. 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". The term has been widely adopted in child protection and is used in this advice. **Harmful sexual behaviour can occur online and/or offline and can also occur simultaneously between the two.** Harmful sexual behaviour should be considered in a child protection context.

17. When considering harmful sexual behaviour, ages and the stages of development of the children are critical factors to consider. Sexual behaviour between children can be considered harmful if one of the children is much older, particularly if there is more than two years' difference or if one of the children is pre-pubescent and the other is not.<sup>19</sup> However, a younger child can abuse an older child, particularly if they have

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<sup>18</sup> [Project deSHAME](#) from Childnet provides useful research, advice and resources regarding online sexual harassment.

<sup>19</sup> [Davies, 2012](#)

power over them, for example, if the older child is disabled<sup>20</sup> or smaller in stature. See [NSPCC: Harmful sexual behaviour](#) for more information on what is harmful sexual behaviour.

18. Detailed advice on harmful sexual behaviour is available from the specialist sexual violence sector: contact [Rape Crisis](#) or [the Survivors Trust](#) for details of the nearest centre. [NICE guidance](#) for advice on, amongst other things: developing interventions; working with families and carers; and multi-agency working. The University of Bedfordshire has developed a range of resources to support schools and colleges to address harmful sexual behaviour, see: [HSB Resources](#). The [Brook sexual behaviours traffic light tool](#) can help when considering harmful sexual behaviour.

19. It is effective safeguarding practice for the designated safeguarding lead (and their deputies) to have a good understanding of harmful sexual behaviour. This could form part of their safeguarding training. This will aid in planning preventative education, implementing preventative measures, drafting and implementing an effective child protection policy and incorporating the approach to sexual violence and sexual harassment into the whole school or college approach to safeguarding.

20. Harmful sexual behaviour **can**, in some cases, progress on a continuum.<sup>21</sup> Addressing inappropriate behaviour **can** be an important intervention that helps prevent problematic, abusive and/or violent behaviour in the future. Children displaying harmful sexual behaviour have often experienced their own abuse and trauma.<sup>22</sup> It is important that they are offered appropriate support.

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<sup>20</sup> [Rich, 2011](#)

<sup>21</sup> [NSPCC and Research in Practice harmful sexual behaviour framework](#) discusses the continuum harmful behaviour can progress on (Hackett 2010 continuum model).

<sup>22</sup> [Hackett et al 2013](#) study of children and young people with harmful sexual behaviour suggests that two-thirds had experienced some kind of abuse or trauma.

## Part two: What are schools' and colleges' legal responsibilities?

21. Schools and colleges have a statutory duty to safeguard and promote the welfare of the children at their school/college.<sup>23</sup> As part of this duty, schools and colleges are required to have regard to guidance issued by the Secretary of State.<sup>24</sup> All schools and colleges must have regard to [Keeping Children Safe in Education](#) and [Working Together to Safeguard Children](#).

22. All schools are required by law to have a behaviour policy<sup>25</sup> and measures in place to prevent all forms of bullying.

23. All maintained secondary schools must teach sex and relationship education (SRE). Any school required to teach it, or academies and state-funded schools that choose to teach it, must follow the SRE [Statutory Guidance](#).<sup>26</sup>

## Legal responsibilities and equality policies

24. Schools and colleges should be aware of their obligations under the Human Rights Act 1998 (HRA).

- It is unlawful for schools and colleges to act in a way that is incompatible with the European Convention on Human Rights. These rights include:
  - Article 3: the right to freedom from inhuman and degrading treatment (an absolute right);
  - Article 8: the right to respect for private and family life (a qualified right) includes a duty to protect individuals' physical and psychological integrity;

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<sup>23</sup> Section 175 of the Education Act 2002 requires governing bodies of maintained schools and colleges, in relation to their functions relating to the conduct of the school or the institution to make arrangements for ensuring that such functions are exercised with a view to safeguarding and promoting the welfare of children who are either pupils at the school or receiving education or training at the institution. The Education (Independent School Standards) Regulations 2014 apply a duty to proprietors of independent schools (which include academies and free schools) to ensure that arrangements are made to safeguard and promote the welfare of children. The Non-Maintained Special Schools (England) Regulations 2015 oblige non-maintained special schools to comply with certain requirements as a condition of their approval and whilst approved by the Secretary of State. One condition of approval is that the proprietor must make arrangements for safeguarding and promoting the health, safety and welfare of pupils, which have regard to any guidance including where appropriate, the National Minimum Standards, about safeguarding and promoting the health, safety and welfare of pupils and, in the case of schools already approved that these arrangements at the school with respect to these matters are in accordance with the approval given by the Secretary of State. For colleges, non-maintained special schools and independent schools, the definition of 'children' applies to the statutory responsibilities for safeguarding and promoting the welfare of children i.e. those under 18.

<sup>24</sup> Under Section 175 of the Education Act 2002, the Education (Independent School Standards) Regulations 2014 and the Non-Maintained Special Schools (England) Regulations 2015.

<sup>25</sup> [behaviour-and-discipline-in-schools-guidance-for-governing-bodies](#)

<sup>26</sup> [Supplementary guidance](#) is available from PSHE Association, Brook and the Sex Education Forum.

- Article 14: requires that all of the rights and freedoms set out in the Act must be protected and applied without discrimination;<sup>27</sup> and
- Protocol 1, Article 2: protects the right to an effective education.

Being subjected to sexual violence or sexual harassment may breach any or all of these rights, depending on the nature of the conduct and the circumstances.

25. Schools and colleges are required to comply with relevant requirements as set out in the Equality Act 2010 (the Equality Act) see [advice for schools](#) and [advice for further and higher education](#).

- According to the Equality Act, schools and colleges must not unlawfully discriminate against pupils because of their sex, race, disability, religion or belief, gender reassignment, pregnancy or sexual orientation (protected characteristics).
- Whilst all of the above protections are important, in the context of this advice schools and colleges should carefully consider how they are supporting their pupils with regard to their sex, sexuality and if appropriate gender reassignment.
- Provisions within the Equality Act allow schools and colleges to take positive action, where it can be shown that it is proportionate, to deal with particular disadvantages affecting one group. A school or college, could, for example, consider taking positive action to support girls if there was evidence they were being disproportionately subjected to sexual violence or sexual harassment.

### Considerations

Schools and colleges should consider the makeup of their own pupil and student body, including the gender and age range of its pupils and students, and whether additional support for children with protected characteristics (who are potentially at greater risk) is appropriate. For example, school and college policies should reflect the gendered nature abuse can take. The evidence shows that girls are more likely to be subject to sexual violence and sexual harassment than boys, and that boys are more likely to perpetrate such violence and harassment. Schools and colleges should consider what they can do to foster healthy and respectful relationships between boys and girls including through Relationship and Sex Education and Personal Social Health and Economic education.

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<sup>27</sup> As a matter of law, Article 14 only applies where the act complained of falls within the ambit of another Convention right, but in this context it should always be assumed that either through Article 8 or Article 2 of Protocol 1, or both, Article 14 will be engaged.

Schools and colleges should ensure that their response to sexual violence and sexual harassment between children of the same sex is equally robust as it is for sexual violence and sexual harassment between children of the opposite sex.

26. Compliance with the Public Sector Equality Duty (PSED) is a legal requirement for schools and colleges that are public bodies.

- The Equality and Human Rights Commission provides the following general guidance for schools that are subject to the [PSED](#).
- Under the PSED, schools and colleges that are public bodies have a general duty to have regard to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity between different groups and to foster good relations between different groups. The duty applies to all protected characteristics and means that whenever significant decisions are being made or policies developed, thought must be given to the equality implications such as, for example, the elimination of sexual violence and sexual harassment.
- Whilst compliance with the PSED is a legal requirement for schools and colleges that are public bodies, meeting it also makes good educational sense. The PSED helps schools and colleges to focus on key issues of concern and how to improve pupil outcomes. For example, where girls are being routinely sexually harassed, not only is the victim of sexual harassment being discriminated against, she is also very likely to have her equality of opportunity adversely affected by its impact on her education.
- An important aspect of the PSED is that schools and colleges need to consider what information they need to have relevant due regard to. This is one reason why good record-keeping and monitoring of sexual violence and sexual harassment reports is essential.

## **Part three: A whole school or college approach to preventing child on child sexual violence and sexual harassment**

### **A whole school or college approach to safeguarding and child protection**

27. The best schools and colleges take a whole school or college approach to safeguarding and child protection. This means involving everyone in the school or college, including the governing body or proprietor, all the staff, children, adult students and parents and carers.

28. Safeguarding and child protection should be a recurrent theme running through policies and procedures. The schools or college's approach to sexual violence and sexual harassment should reflect and be part of the broader approach to safeguarding.

29. The schools or college's safeguarding procedures with regard to sexual violence and sexual harassment should be transparent, clear and easy to understand for staff, pupils, students, parents and carers.

#### **Contextual Safeguarding**

30. Safeguarding incidents and/or behaviours can be associated with factors outside the school or college and/or can occur between children outside the school or college. All staff, but especially the designated safeguarding lead (or deputy) should be considering the context within which such incidents and/or behaviours occur. This is known as contextual safeguarding, which simply means assessments of children should consider whether wider environmental factors are present in a child's life that are a threat to their safety and/or welfare. Children's social care assessments should consider such factors so it is important that schools and colleges provide as much information as possible as part of the referral process. This will allow any assessment to consider all the available evidence and the full context of any abuse. Additional information regarding contextual safeguarding is available here: [Contextual safeguarding](#).

### **Safeguarding training**

31. Decisions relating to teachers' professional development rightly rest with schools, colleges, headteachers, principals and teachers themselves, as they are in the best position to assess their individual requirements and also take into consideration local priorities and local issues. The Standard for Teachers' Professional Development is here: [teachers' professional development](#).

32. As per Part one of [Keeping Children Safe in Education](#), as part of their child

protection and safeguarding training, schools and colleges should consider the importance of their staff being aware of the different types of abuse and neglect. Equally important is that staff know what to do if they have a concern about a child, how to respond to a report of abuse, how to offer support to children and where to go to if they need support.

## **The role of education in prevention**

33. Schools and colleges can play an important role in preventative education. [Keeping Children Safe in Education](#) sets out that all schools and colleges should ensure children are taught about safeguarding, including how to stay safe online. Schools should consider this as part of providing a broad and balanced curriculum.

### **A planned curriculum as part of a whole school approach**

34. The most effective preventative education programme will be through a whole-school approach that prepares pupils for life in modern Britain. The school will have a clear set of values and standards, and these will be upheld and demonstrated throughout all aspects of school life. This will be underpinned by the school's behaviour policy and pastoral support system, and by a planned programme of evidence-based content delivered through the whole curriculum. Such a programme should be developed to be age and stage of development appropriate (especially when considering SEND children and their cognitive understanding), and may tackle such issues as:

- healthy and respectful relationships;
- what respectful behaviour looks like;
- consent;<sup>28</sup>
- gender roles, stereotyping, equality;
- body confidence and self-esteem;
- prejudiced behaviour;
- that sexual violence and sexual harassment is always wrong; and
- addressing cultures of sexual harassment.

35. Schools often deliver this currently, through planned, high-quality, Sex and Relationship Education (SRE) and Personal, Social, Health and Economic (PSHE)

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<sup>28</sup> [PSHE Teaching about consent](#) from the PSHE association provides advice and lesson plans to teach consent at Key stage 3 and 4.



education programmes. More information about PSHE can be found [here](#). The PSHE Association provides guidance to schools on developing their PSHE curriculum. See: [www.pshe-association.org.uk](http://www.pshe-association.org.uk). Colleges often do this via tutorials.

36. The Children and Social Work Act 2017 placed a duty on the Secretary of State to make Relationships Education compulsory for all pupils receiving primary education and Relationships and Sex Education (RSE, to replace sex education) compulsory for all pupils receiving secondary education. It also gave the Secretary of State a power to make PSHE, or elements therein, compulsory in all schools. The decision regarding PSHE is subject to further careful consideration. The department is currently engaging with experts, schools, parents and young people to determine what these subjects will look like and whether or not to make PSHE, or elements therein, compulsory. This will be followed by a formal consultation on regulations and guidance before the new subjects are made compulsory.

37. Good practice allows children an open forum to talk things through. Such discussions can lead to increased safeguarding reports. Children should be made aware of the processes to raise their concerns or make a report and how any report will be handled. This should include processes when they have a concern about a friend or peer. All staff should be aware of how to support children and how to manage a safeguarding report from a child (as per paragraph 17 of Keeping Children safe in Education).

## **Specialist support and interventions**

38. As part of their approach to sexual violence and sexual harassment, schools and colleges should consider carefully if external input is necessary. This might be to train and/or support their staff, teach their children and/or provide support to their children.

39. Specialist organisations can offer a different perspective and expert knowledge. It is good practice for schools and colleges to assure themselves of the quality of any specialist provider with whom they engage. This may take the form of written testimonials or engaging with a provider that is well known and established. See Annex A for a list of some of the available specialist support services.

### **CASE STUDY: Preventative Education**

A School and Sixth Form Centre provides extensive learning on relationships through a spiral PSHE education curriculum, based on the PSHE Association's programme of study. Their schemes of work build on prior knowledge, with the importance of healthy relationships developed during earlier years and a focus on specific aspects – including teen relationship violence, sexual exploitation and coercion – at an appropriate stage.

The school's approach is a good illustration of how this kind of education supports healthy relationships and challenges attitudes that can grow into disrespect and even violence if unchallenged. For instance, this school year they are working on changing stereotypical attitudes and developing media literacy skills through PSHE lessons that explore the use of sexualised language and images that can support such attitudes and reduce respect for others.

Carefully chosen external contributors are occasionally used to supplement the planned PSHE curriculum in these areas, with timetabled lessons providing the context for both preparatory work and reinforcement of the learning. Before-and-after evaluations of this combined classroom work and external contributions are undertaken to assess levels of increased understanding.

The school describes the skills and attributes developed through PSHE education as having a demonstrable impact on students. For example, it develops skills to understand what constitutes abusive behaviour; communication skills to convey difficult messages; and developing empathy to foster respect for others and the ability to see the world from others' perspective. PSHE education lessons always include activities that allow teachers and students to gauge, demonstrate and/or reflect on their learning and progress.

The school PSHE lead puts this success down to a number of factors, including:

- ensuring a spiral PSHE curriculum that enables a return to the same core themes in different ways according to age and stage of development, therefore building on prior learning;
- a whole school approach, with PSHE including RSE complementing relevant school policies and initiatives; and
- supportive school leadership, a trained and confident PSHE education team, as well as an understanding amongst the wider staff team of the importance of this work.

## Part four: Responding to reports of sexual violence and sexual harassment

### Introduction

40. Reports of sexual violence and sexual harassment are likely to be complex, requiring difficult professional decisions to be made, often quickly and under pressure. Pre-planning, effective training and effective policies will provide schools and colleges with the foundation for a calm, considered and appropriate response to any report.

41. This part of the advice does not attempt to provide (nor would it be possible to provide) detailed advice on what to do in any or every particular case. The advice provides effective safeguarding practice and principles for schools and colleges to consider in their decision making process.

42. Ultimately, any decisions are for the school or college to make on a case-by-case basis, with the designated safeguarding lead (or a deputy) taking a leading role, using their professional judgement and being supported by other agencies, such as children's social care and the police as required.

### Support for schools and colleges

43. Schools and colleges should not feel that they are alone in dealing with sexual violence and sexual harassment.

- [Working Together to Safeguard Children](#) sets out details of the wider child protection system, inter-agency working and schools' and colleges' role in it.
- **Part one of** [Keeping Children Safe in Education](#) (which all school and college staff should read) and [What to do if you're worried a child is being abused](#) provide information for all staff on indicators to look out for and advice on what they should do if they have concerns about a child.
- **The police** will be important partners where a crime might have been committed. Where a report of rape, assault by penetration or sexual assault is made, the starting principle is that this should be referred 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 in these cases.
  - Referrals to the police will often be a natural progression of making a referral to children's social care. The designated safeguarding lead (or a deputy) should be leading the schools or college's response and should be aware of

the local process for referrals to children's social care and making referrals to the police.

- Many schools and colleges have close relationships with their local police force and many police forces have a permanent or semi-permanent police presence in schools and colleges. The designated safeguarding lead (or deputy) should be liaising closely with the local police presence, where there is one.
- **The NSPCC** provides a helpline for professionals at 0808 800 5000 and [help@nspcc.org.uk](mailto:help@nspcc.org.uk). The helpline provides expert advice and support for school and college staff and will be especially useful for the designated safeguarding lead (and their deputies).
- Support from **specialist sexual violence sector organisations** such as [Rape Crisis](#) or [The Survivors Trust](#).
- **The Anti-Bullying Alliance** has developed guidance for schools about [preventing and responding to sexual bullying](#).
- **Online:** Schools and colleges should recognise that sexual violence and sexual harassment occurring online (either in isolation or in connection to offline incidents) can introduce a number of complex factors. These include the potential for the incident to take place across a number of social media platforms and services, and for things to move from platform to platform online. It also includes the potential for the impact of the incident to extend further than a schools or college's local community (e.g. for images or content to be shared around neighbouring schools/colleges) and for a victim (or alleged perpetrator) to become marginalised and excluded by both online and offline communities. There is also the strong potential for repeat victimisation in the future if abusive content continues to exist somewhere online. Online concerns can be especially complicated. Support is available at:
  - **The UK Safer Internet Centre** provides an online safety helpline for professionals at 0344 381 4772 and [helpline@saferinternet.org.uk](mailto:helpline@saferinternet.org.uk). The helpline provides expert advice and support for school and college staff with regard to online safety issues and will be especially useful for the designated safeguarding lead (and their deputies) when a report of sexual violence or sexual harassment includes an online element.
  - **Internet Watch Foundation:** If the incident/report involves sexual images or videos that have been made and circulated online, the victim can be supported to get the images removed through the [Internet Watch Foundation](#) (IWF). The IWF will make an assessment of whether the image is illegal in line with UK Law. If the image is assessed to be illegal, it will be removed and added to the IWF's Image Hash list.
  - **UKCCIS Sexting advice:** Sharing indecent images of a child (including by

children) is a crime: [UKCCIS advice](#) provides support to schools and colleges in responding to reports of sexting (also known as youth produced sexual imagery).

- [Thinkuknow](#) from CEOP provides support for the children's workforce, parents and carers on staying safe online.
- Additional information including various avenues of support are set out in **Annex A** of this advice.

44. Effective safeguarding practice is for schools and colleges to be clear, in advance, as to what local processes are in place and what support can be accessed when sexual violence or sexual harassment has occurred. It is important to prepare for this in advance and review this information on a regular basis to ensure it is up to date. As such:

- if required, the designated safeguarding lead (or a deputy) should discuss the local response to sexual violence and sexual harassment with police and children's social care colleagues in order to prepare the schools or college's policies (especially the child protection policy) and responses; and
- the designated safeguarding lead (and their deputies) should be confident as to what local specialist support is available to support all of the children involved (including victims and alleged perpetrators) in sexual violence and sexual harassment and be confident as to how to access this support when required.

## The immediate response to a report

### Responding to the report

45. The school or college's initial response to a report from a child is important. It is essential that **all** victims are reassured that they are being taken seriously and that they will be supported and kept safe. 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.

46. 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. As with all safeguarding concerns, it is important that in such instances staff take appropriate action in accordance with their 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 a deputy). In such cases, the basic safeguarding principles remain the same, but it is important for the school or college to understand why the victim has chosen not to make a report themselves. This discussion should be handled sensitively and with the support of children's social care if required.

47. There may be reports where the alleged sexual violence or sexual harassment involves pupils or students from the same school or college, but is alleged to have taken place away from the school or college premises, or online. There may also be reports where the children concerned attend two or more different schools or colleges. The safeguarding principles, and individual schools' and colleges' duties to safeguard and promote the welfare of their pupils and students, remain the same. The same principles and processes as set out from paragraph 48 will apply. In such circumstances, appropriate information sharing and effective multi-agency working will be especially important.

48. As per Part one of [Keeping Children Safe in Education](#), all staff should be trained to manage a report. Local policies (and training) will dictate exactly how reports should be managed. However, effective safeguarding practice includes:

- not promising confidentiality at this initial stage as it is very likely a concern will have to be shared further (for example, with the designated safeguarding lead or children's social care) to discuss next steps. Staff should only share the report with those people who are necessary in order to progress it. It is important that the victim understands what the next steps will be and who the report will be passed to;
- recognising a child is likely to disclose information to someone they trust: this could be **anyone** on the school or college staff. It is important that the person to whom the child discloses recognises that the child has placed them in a position of trust. They should be supportive and respectful of the child;
- listening carefully to the child, being non-judgmental, being clear about boundaries and how the report will be progressed, not asking leading questions and only prompting the child where necessary with open questions – where, when, what, etc.;
- considering the best way to make a record of the report. Best practice is to wait until the end of the report and immediately write up a thorough summary. This allows the staff member to devote their full attention to the child and to listen to what they are saying. It may be appropriate to make notes, especially if a second member of staff is present. However, if making notes, staff should be conscious of the need to remain engaged with the child and not appear distracted by the note taking. Either way, it is essential a written record is made;
- only recording the facts as the child presents them. The notes should not reflect the personal opinion of the note taker. Schools and colleges should be aware that notes of such reports could become part of a statutory assessment by children's social care and/or part of a criminal investigation;
- where the report includes an online element, being aware of [searching screening](#)

[and confiscation](#) advice (for schools) and [UKCCIS](#) sexting advice (for schools and colleges). The key consideration is for staff not to view or forward illegal images of a child. The highlighted advice provides more details on what to do when viewing an image is unavoidable.

- if possible, managing reports with two members of staff present, (preferably one of them being the designated safeguarding lead or a deputy). However, this might not always be possible; and
- informing the designated safeguarding lead (or deputy), as soon as practically possible, if the designated safeguarding lead (or deputy) is not involved in the initial report.

## Considering confidentiality and anonymity

### Confidentiality

49. Staff taking a report should 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.

50. The school or college should only engage staff and agencies who are required to support the children involved and/or be involved in any investigation.

51. The victim may ask the school or college not to tell anyone about the sexual violence or sexual harassment. There are no easy or definitive answers when a victim makes this request. If the victim does not give consent to share information, staff may still lawfully share it, if it can be justified to be in the public interest, for example, to protect children from harm and to promote the welfare of children. The designated safeguarding lead (or a deputy) should consider the following:

- parents or carers should normally be informed (unless this would put the victim at greater risk);
- the basic safeguarding principle is: if a child is at risk of harm, is in immediate danger, or has been harmed, a referral should be made to children's social care; and
- rape, assault by penetration and sexual assaults are crimes. Where a report of rape, assault by penetration or sexual assault is made, this should be referred to the police. Whilst the age of criminal responsibility is ten, if the alleged perpetrator is under ten, the starting principle of referring to the police remains. The police will take a welfare, rather than a criminal justice approach, in these cases.

52. Ultimately, the designated safeguarding lead (or a deputy) will have to balance the victim's wishes against their duty to protect the victim and other children.



53. If the designated safeguarding lead (or a deputy) do decide to go ahead and make a referral to children's social care and/or a report to the police against the victim's wishes, this should be handled extremely carefully, the reasons should be explained to the victim and appropriate specialist support should be offered.

54. Additional information on confidentiality and information sharing is available at [Safeguarding Practitioners Information Sharing Advice](#) and [NSPCC: Information sharing and confidentiality for practitioners](#).

## Anonymity

55. Where an allegation of sexual violence or sexual harassment is progressing through the criminal justice system, schools and colleges should be aware of anonymity, witness support and the criminal process in general so they can offer support and act appropriately.<sup>29</sup> Information is at: [CPS: Safeguarding Children as Victims and Witnesses](#).

56. As a matter of effective safeguarding practice, schools and colleges should do all they 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.

57. Schools and colleges should also consider the potential impact of social media in facilitating the spreading of rumours and exposing victims' identities. The unique challenges regarding social media are discussed at paragraph 43, along with potential support. In addition, the principles described in [Childnet's cyberbullying guidance](#) could be helpful.

## Risk Assessment

58. When there has been a report of sexual violence, the designated safeguarding lead (or a deputy) should 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. The risk and needs assessment should consider:

- the victim, especially their protection and support;
- the alleged perpetrator; and
- all the other children (and, if appropriate, adult students and staff) at the school or

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<sup>29</sup>It is not the role of schools and colleges to provide legal advice or support to victims, alleged perpetrators or parents in respect of a criminal justice process. Rather, schools and colleges should be aware of their own position and responsibilities.



college, especially any actions that are appropriate to protect them;

59. Risk assessments should be recorded (written or electronic) and should be kept under review. At all times, the school or college should be actively considering the risks posed to all their pupils and students and putting adequate measures in place to protect them and keep them safe. Support referenced at paragraphs 17 and 18 (in the Harmful Sexual Behaviours section) could support the risk assessment process.

60. The designated safeguarding lead (or a deputy) should ensure they are engaging with children's social care and specialist services as required. Where there has been a report of sexual violence, it is likely that professional risk assessments by social workers and or sexual violence specialists will be required. The risk assessment (at paragraph 58) is not intended to replace the detailed assessments of expert professionals. Any such professional assessments should be used to inform the schools or college's approach to supporting and protecting their pupils and students and updating their own risk assessment.

## **Action following a report of sexual violence and/or sexual harassment**

### **What to consider**

61. Schools and colleges should carefully consider any report of sexual violence and/or sexual harassment. The designated safeguarding lead (or deputy) is likely to have a complete safeguarding picture and be the most appropriate person to advise on the schools or college's initial response. 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;
- the nature of the alleged incident(s), including: whether a crime may have been committed and consideration of harmful sexual behaviour (as set out on paragraphs 16-20);
- the ages of the children involved;
- the developmental stages of the children involved;
- any power imbalance between the children. For example, is the alleged perpetrator significantly older, more mature or more confident? Does the victim have a disability or learning difficulty?;
- is the alleged incident is a one-off or a sustained pattern of abuse?;

- are there ongoing risks to the victim, other children, adult students or school or college staff?; and
- other related issues and wider context.

62. As always when concerned about the welfare of a child, all staff should act in the best interests of the child. In all cases, schools and colleges should follow general safeguarding principles as per [Keeping Children Safe in Education](#). **Immediate** consideration should be given as to how best to support and protect the victim and the alleged perpetrator (and any other children involved/impacted).

63. The starting point regarding any report should always be that sexual violence and sexual harassment is not acceptable and will not be tolerated. Especially important, is not to pass off any sexual violence or sexual harassment as 'banter', 'part of growing up' or 'having a laugh'.

#### **Children sharing a classroom: Initial considerations when the report is made**

Any report of sexual violence is likely to be traumatic for the victim.

However, reports of rape and assault by penetration are likely to be especially difficult with regard to the victim and close proximity with the alleged perpetrator is likely to be especially distressing. Whilst the school or college establishes the facts of the case and starts the process of liaising with children's social care and the police, the alleged perpetrator should be removed from any classes they share with the victim. The school or college should also consider how best to keep the victim and alleged perpetrator a reasonable distance apart on school or college premises and on transport to and from the school or college, where appropriate. These actions are in the best interests of both children and should not be perceived to be a judgment on the guilt of the alleged perpetrator.

For other reports of sexual violence and sexual harassment, the proximity of the victim and alleged perpetrator and considerations regarding shared classes, sharing school or college premises and school or college transport, should be considered immediately.

In all cases, the initial report should be carefully evaluated, reflecting the considerations set out at paragraph 61. The wishes of the victim, the nature of the allegations and the protection of all children in the school or college will be especially important when considering any immediate actions.

### **Options to manage the report**

64. It is important that schools and colleges consider every report on a case-by-case basis as per paragraph 61. When to inform the alleged perpetrator will be a decision that should be carefully considered. Where a report is going to be made to children's social

care and/or the police, then, as a general rule, the school or college should speak to the relevant agency and discuss next steps and how the alleged perpetrator will be informed of the allegations. However, as per general safeguarding principles, this does not and should not stop the school or college taking immediate action to safeguard their children, where required.

65. There are four likely scenarios for schools and colleges to consider when managing any reports of sexual violence and/or sexual harassment.

### 1. Manage internally

- In some cases of sexual harassment, for example, one-off incidents, the school or college may take the view that the children concerned are not in need of early help or statutory intervention 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 schools or college's response, it should be underpinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated.
- All concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

#### CASE STUDY

A 12-year-old girl reported to the head of year that five boys in her friendship group were playing a game, which involved daring each other to use increasingly graphic sexually explicit language, describing what they would like to do to her. She was very upset, but did not want to get anyone into trouble or everyone to know about it. She just wanted them to stop. She explained this to her head of year.

The head of year explained to her that what she had experienced was extremely serious and reassured her that her reaction was completely understandable. He also explained that he would pass the report to the designated safeguarding lead to ensure records were updated. He explained he would be following the school's behaviour policy and would speak to the boys involved and their parents, making it clear that what they were doing was sexual bullying and harassment and taken extremely seriously.

The girl's parents were contacted and given the opportunity to discuss the action the school planned to take.

Result: the boys were removed from the classroom and reprimanded with their parents present. It was made clear that the behaviour was unacceptable and they received a

punishment in line with the behaviour policy. They were also warned about the more severe consequences that would arise if the harassment continued.

Everything was explained to the girl and once the head of year was satisfied that she was confident that the school had taken her complaint seriously and managed it, the boys were returned to the classroom. There have been no further incidents.

## 2. Early help

- In line with point 1 above, the school or college may decide that the children involved do not require statutory interventions 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 non-violent harmful sexual behaviour and may prevent escalation of sexual violence.
- 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.
- Whatever the response, it should be under-pinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated.
- All concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

## 3. Referrals to children's social care

- Where a child has been harmed, is at risk of harm, or is in immediate danger, schools and colleges should make a referral to local children's social care.
- At the referral to children's social care stage, schools and colleges 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 school or college (especially the designated safeguarding lead or a deputy) should be working alongside, and

cooperating 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 and any other children that require support.

- Schools and colleges should not wait for the outcome (or even the start) of a children's social care investigation before protecting the victim and other children in the school or college. It will be important for the designated safeguarding lead (or a deputy) to work closely with children's social care (and other agencies as required) to ensure any actions the school or college takes do not jeopardise a statutory investigation. The risk assessment as per paragraph 58 will help inform any decision. Consideration of safeguarding the victim, alleged perpetrator, any children directly involved in the reported incident and all children (and adult students) at the school or college should be **immediate**.
- In some cases, children's social care will review the evidence and decide a statutory intervention is not appropriate. The school or college (generally led by the designated safeguarding lead or a deputy) should be prepared to refer again if they believe the child remains in immediate danger or at risk of harm. If a statutory assessment is not appropriate, the designated safeguarding lead (or a deputy) should consider other support mechanisms such as early help, specialist support and pastoral support.
- Whatever the response, it should be under-pinned by the principle that sexual violence and sexual harassment 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.
- At this stage, schools and colleges will generally inform parents or carers unless there are compelling reasons not to, for example, if informing a parent or carer is likely to put a child at additional risk. In circumstances where parents or carers

have not been informed, it will be especially important that the school or college is supporting the child in any decision they take. This should be with the support of children's social care and any appropriate specialist agencies

- Where a report has been made to the police, the school or college should consult the police and agree what information can be disclosed to staff and others, in particular, the alleged perpetrator and their parents or carers. They should also discuss the best way to protect the victim and their anonymity.
- All police forces in England have specialist units that investigate child abuse. The names and structures of these units are matters for local forces. It will be important that the designated safeguarding lead (and their deputies) are aware of their local arrangements.
- In some cases, it may become clear very quickly, that the police (for whatever reason) will not take further action. In such circumstances, it is important that the school or college continue to engage with specialist support for the victim as required.
- Whatever the response, it should be under-pinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated.
- All concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

### **Considering bail conditions**

- From April 2017, the use of police bail has been dramatically reduced and will only be used when deemed necessary and proportionate in exceptional circumstances. Consideration will be given to less invasive options to safeguard victims and witnesses and the administration of justice. Therefore, it is less likely that a child attending school or college will be on police bail with conditions attached if there are alternative measures to mitigate any risk.
- In the absence of bail conditions, when there is a criminal investigation, early engagement and joined up working between the school or college, children's social care and the police will be critical to support the victim, alleged perpetrator and other children (and adult students) involved (especially potential witnesses). Where required, advice from the police should be sought in order to help the school or college manage their safeguarding responsibilities.
- The term 'Released Under Investigation' or 'RUI' will replace those previously on bail for offences in circumstances that do not warrant the application of bail to either re-attend on a particular date or to include conditions preventing activity or in some cases ensuring compliance with an administrative process.
- Where bail is deemed proportionate and necessary, the school or college should

work with children's social care and the police to manage any implications and safeguard their children, adult students and staff. An important consideration will be to ensure that the victim can continue in their normal routine, including receiving a suitable education.

### Managing any delays in the criminal process

- There may be delays in any case that is being progressed through the criminal justice system. Schools and colleges **should not wait** for the outcome (or even the start) of a police investigation before protecting the victim, alleged perpetrator and other children and adult students in the school or college. The risk assessment as per paragraph 58 will help inform any decision.
- Considering any disciplinary action against the alleged perpetrator whilst an investigation is ongoing is discussed below in the alleged perpetrator section.
- Whilst protecting children and/or taking any disciplinary measures against the alleged perpetrator, it will be important for the designated safeguarding lead (or a deputy) to work closely with the police (and other agencies as required), to ensure any actions the school or college take do not jeopardise the police investigation.
- If schools or colleges have questions about the investigation, they should ask the police. The police will help and support the school or college as much as they can (within the constraints of any legal restrictions).

### The end of the criminal process

- If a child is convicted or receives a caution for a sexual offence, the school or college should update its risk assessment, ensure relevant protections are in place for all children at the school or college and, if it has not already done so, consider any suitable action in light of their behaviour policy. If the perpetrator remains in the same school or college as the victim, the school or college should be very clear as to their expectations regarding the perpetrator now they have been convicted or cautioned. This could include expectations regarding their behaviour and any restrictions the school or college thinks are reasonable and proportionate with regard to the perpetrator's timetable.
- Any conviction (even with legal anonymity reporting restrictions) is potentially going to generate interest among other pupils or students in the school or college. It will be important that the school or college ensure both the victim and alleged perpetrator remain protected, especially from any bullying or harassment (including online).
- Where cases are classified as "no further action" (NFA'd) by the police or Crown Prosecution Service, or where there is a not guilty verdict, the school or college should continue to offer support to the victim and the alleged perpetrator for as



long as is necessary. A not guilty verdict or a decision not to progress with their case will likely be traumatic for the victim. The fact that an allegation cannot be substantiated does not necessarily mean that it was unfounded. Schools and colleges should discuss any decisions with the victim in this light and continue to offer support. The alleged perpetrator is also likely to require ongoing support for what will have likely been a difficult experience.

### **CASE STUDY**

A 15 year old girl disclosed to a pastoral lead that she had been sexually touched by a 15 year old boy, on public transport on the way to school. The school made a referral to children's social care on the same day, submitting a MARF (Multi Agency Referral Form) for both children. The MARF led to immediate police involvement. The school arranged for the boy to have an amended timetable so that he was not in any class with the girl. Specific teaching staff were briefed on the need to ensure the children were not together. The girl was given a trusted adult she could go to at any time: this staff member agreed she would meet with the girl every day and she supported her with break and lunchtime arrangements. The girl was able to suggest how she would feel safest at lunchtime.

At the end of the second day, another girl went to the designated safeguarding lead (DSL) and made a report about the same boy. She reported that he had sexually assaulted her in school three weeks before. The school submitted a MARF for the girl and a second MARF for the boy. The school knew the police were involved and that a MERLIN had been submitted (a crime report involving a child), but they knew the police would not have the ongoing and detailed information about the boy held by the school. The school did not want either girl further distressed by possibly seeing the boy around school; the option choices and group sizes for the three children meant it was very difficult to educate separately. The school contacted another secondary school. The school links had been established as part of the IYFAP (In Year Fair Access Process) and made immediate arrangements for the boy to move to the other school so that his education was not disrupted. The boy remained at the new school for the duration of the investigation. The DSLs from both schools worked together with police and the children and ensured appropriate child protection information was shared so the receiving school was fully aware of the allegations.

The boy received a caution and the decision was made for him to remain at his new school where he engaged with a personalised SRE plan. Parents were



involved throughout; the children were at the centre of decision-making, often suggesting how they could be supported.

## Ongoing response

### Safeguarding and supporting the victim

66. The following principles are based on effective safeguarding practice and should help shape any decisions regarding safeguarding and supporting the victim.

- As discussed at page 5, the school or college should think carefully about the terminology it uses to describe the “victim”.
- Consider the age and the developmental stage of the victim, the nature of the allegations and the potential risk of further abuse. Schools and colleges should be aware that, by the very nature of sexual violence and sexual harassment, a power imbalance is likely to have been created between the victim and alleged perpetrator.
- The needs and wishes of the victim should be paramount (along with protecting the child) in any response. It is important they feel in as much control of the process as is reasonably possible. Wherever possible, the victim, if they wish, should be able to continue in their normal routine. Overall, the priority should be to make the victim’s daily experience as normal as possible, so that the school or college is a safe space for them.
- The victim should never be made to feel they are the problem for making a report or made to feel ashamed for making a report.
- Consider the proportionality of the response. Support should be tailored on a case-by-case basis. The support required regarding a one-off incident of sexualised name-calling is likely to be vastly different from that for a report of rape. Support can include:
  - Children and Young People’s Independent Sexual Violence Advisors (ChISVAs) provide emotional and practical support for victims of sexual violence. They are based within the specialist sexual violence sector and will help the victim understand what their options are and how the criminal justice process works if they have reported or are considering reporting to the police. ChISVAs will work in partnership with schools and colleges to ensure the best possible outcomes for the victim.
  - Police and social care agencies can signpost to ChISVA services (where available) or referrals can be made directly to the ChISVA service by the young person or school or college. Contact details for ChISVAs can be found at [Rape Crisis](#) and [The Survivors Trust](#).

- Child and adolescent mental health services ([CAMHS](#)).
- [Rape Crisis](#) Centre's can provide therapeutic support for children who have experienced sexual violence.
- [Internet Watch Foundation](#) (to potentially remove illegal images)

### **CASE STUDY**

A 15-year-old boy and girl who go to the same school had sex at a party and, without them knowing, other people at the party filmed it. The video was then uploaded to a site and shared around their school and other schools in the area.

Following this, the girl was sexually harassed at school being called a 'slag and a slut' during lessons. Other boys in the school began propositioning her in school and trying to touch her aggressively and inappropriately. A teacher who saw the sexual harassment in his class talked to the girl about how she was feeling and suggested she spoke to the Designated Safeguarding Lead (DSL). The DSL spoke to the girl and recorded the report, discussed her options about trying to get the video deleted from people's devices and the website it was on, and how to talk to her parents about what happened. The teachers and parents did not view the video and this was communicated to the girl and boy.

Whilst in this case the boy was not harassed in the same way as the girl, the school recognised he was also a victim and spoke to him about his feelings and what could be done to support him.

The teacher arranged a workshop as part of the PSHE curriculum for all year 10s about respect, shame, consent and their collective responsibility to challenge inappropriate sexual behaviour.

The parents of the girl and boy worked with the school and the police to get the content removed via the IWF and identify who recorded and distributed the video. Both the girl and boy were supported through the investigation with counselling.

Those responsible for harassing the girl and sharing the video received sanctions in line with the school behaviour policy.

- Victims may not disclose the whole situation immediately. They may be more comfortable providing information on a piecemeal basis. It is essential that dialogue is kept open and encouraged. When it is clear that ongoing support will be required, schools and colleges should ask the victim if they would find it helpful to have a designated trusted adult (for example, their form tutor or designated safeguarding lead) to talk to about their needs. The choice of any such adult should be the victim's. Schools and colleges should respect and support this

choice.

- A victim of sexual violence is likely to be traumatised and, in some cases, may struggle in a normal classroom environment. While schools and colleges should avoid any action that would have the effect of isolating the victim, in particular from supportive peer groups, there may be times when the victim finds it difficult to maintain a full-time timetable and may express a wish to withdraw from lessons and activities. This should be because the victim wants to, not because it makes it easier to manage the situation. If required, schools and colleges should provide a physical space for victims to withdraw.
- It may be necessary for schools and colleges to maintain arrangements to protect and support the victim for a long time. Schools and colleges should be prepared for this and should work with children's social care and other agencies as required.
- It is important that the school or college do everything they reasonably can to protect the victim from bullying and harassment as a result of any report they have made.
- Whilst they should be given all the necessary support to remain in their school or college, if the trauma results in the victim being unable to do this, alternative provision or a move to another school or college should be considered to enable them to continue to receive suitable education. This should only be at the request of the victim (and following discussion with their parents or carers).
- It is important that if the victim does move to another educational institution (for any reason), that the new educational institution is made aware of any ongoing support needs. The designated safeguarding lead should take responsibility to ensure this happens (and should discuss with the victim and, where appropriate, their parents or carers as to the most suitable way of doing this) as well as transferring the child protection file. Information sharing advice referenced at paragraph 54 will help support this process.

#### **Ongoing Considerations: Victim and alleged perpetrator sharing classes**

Page 26 considered the immediate response to a report. Once the designated safeguarding lead (or a deputy) has decided what the next steps will be in terms of progressing the report, they should consider again the question of the victim and alleged perpetrator sharing classes and sharing space at school or college. This will inevitably involve complex and difficult professional decisions, including considering their duty to safeguard children and their duty to educate them. It is important each report is considered on a case-by-case basis and risk assessments are updated as appropriate. As always when concerned about the welfare of a child, the best interests of the child should come first. In all cases,

schools and colleges should follow general safeguarding principles as per [Keeping Children Safe in Education](#).

Where there is a criminal investigation into a rape, assault by penetration or sexual assault, the alleged perpetrator should be removed from any classes they share with the victim. The school or college should also consider how best to keep the victim and alleged perpetrator a reasonable distance apart on school or college premises and on transport to and from school or college where appropriate. This is in the best interests of both children and should not be perceived to be a judgement on the guilt of the alleged perpetrator. As per the advice provided on pages 29-31, close liaison with the police is essential.

Where a criminal investigation into a rape or assault by penetration leads to a conviction or caution, the school or college should take suitable action, if they have not already done so. In all but the most exceptional of circumstances, the rape or assault is likely to constitute a serious breach of discipline and lead to the view that allowing the perpetrator to remain in the same school or college would seriously harm the education or welfare of the victim (and potentially other pupils or students).

Where a criminal investigation into sexual assault leads to a conviction or caution, the school or college should, if it has not already, consider any suitable sanctions in light of their behaviour policy, including consideration of permanent exclusion.<sup>30</sup> Where the perpetrator is going to remain at the school or college, the principle would be to continue keeping the victim and perpetrator in separate classes and continue to consider the most appropriate way to manage potential contact on school and college premises and transport. The nature of the conviction or caution and wishes of the victim will be especially important in determining how to proceed in such cases.

In all cases, schools and colleges should record and be able to justify their decision-making.

Reports of sexual assault and sexual harassment will, in some cases, not lead to a report to the police (for a variety of reasons). In some cases, rape, assault by penetration, sexual assault or sexual harassment allegations are reported to the police and the case is not progressed or they are reported to the police and ultimately result in a not guilty verdict. None of this means the offence did not happen or that the victim lied. The process will have affected both victim and alleged perpetrator. Appropriate support should be provided to both individuals as required and consideration given to sharing classes and potential contact as

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<sup>30</sup> Maintained schools, academies and pupil referral units should follow the statutory guidance [here](#). Independent schools and colleges should consider excluding as per their own policies.

required on a case-by-case basis. In all cases, schools and colleges should record and be able to justify their decision-making.

All of the above should be considered with the needs and wishes of the victim at the heart of the process (supported by parents and carers as required). Any arrangements should be kept under review.

## Safeguarding and supporting the alleged perpetrator

67. The following principles are based on effective safeguarding practice and should help shape any decisions regarding safeguarding and supporting the alleged perpetrator:

- As discussed at page 5. The school or college should think carefully about the terminology it uses to describe the “alleged perpetrator” or “perpetrator”.
- The school or college will have a difficult balancing act to consider. On one hand they need to safeguard the victim (and all other children, adult students and staff at the school or college) and on the other hand provide the alleged perpetrator with an education, safeguarding support as appropriate and implement any disciplinary sanctions.
- A child abusing another child may be a sign they have been abused themselves or a sign of wider issues that require addressing within the culture of the school or college. Schools and colleges should work with professionals as required to understand why a child may have abused a peer. It is important to remember that, as a child, any alleged perpetrator is entitled to, deserving of, and should be provided with, a high level of support to help them understand and overcome the reasons for their behaviour and help protect other children by limiting the likelihood of them abusing again.
- Consider the age and the developmental stage of the alleged perpetrator and nature of the allegations. Any child will likely experience stress as a result of being the subject of allegations and/or negative reactions by their peers to the allegations against them.
- Consider the proportionality of the response. Support (and sanctions) should be considered on a case-by-case basis. An alleged perpetrator may potentially have unmet needs (in some cases these may be considerable) as well as potentially posing a risk of harm to other children. Harmful sexual behaviour in young children may be (and often are<sup>31</sup>) a symptom of either their own abuse or exposure to

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<sup>31</sup> [Hackett et al 2013](#) study of children and young people with harmful sexual behaviour suggests that two-thirds had experienced some kind of abuse or trauma.

abusive practices and or materials. Advice should be taken, as appropriate, from children's social care, specialist sexual violence services and the police.

- It is important that if the alleged perpetrator does move to another educational institution (for any reason), that the new educational institution is made aware of any ongoing support needs and where appropriate, potential risks to other children, adult students and staff. The designated safeguarding lead should take responsibility to ensure this happens as well as transferring the child protection file. Information sharing advice referenced at para 54 will help support this process.

## **Discipline and the alleged perpetrator**

### **Schools**

68. With regard to the alleged perpetrator, 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. Exclusions statutory guidance for maintained schools, academies and PRUs is [here](#). 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 a school 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 a deputy) should take a leading role. The school should consider if, by taking any action, they would prejudice an investigation and/or any subsequent prosecution. Careful liaison with the police and/or children's social care should help the school make a determination. It will also be important to consider whether there are circumstances that make it unreasonable or irrational for the school to reach their own view about what happened while an independent investigation is considering the same facts.

### **Colleges**

69. Whilst colleges are not under the same legal obligations as schools with regard to behaviour and discipline, the principles set out in paragraph 68 will still be relevant and should be applied to their decision-making process.

### **Discipline and support**

70. Taking disciplinary action and still providing appropriate support are not mutually exclusive actions. They can, and should, occur at the same time if necessary. The school or college should be very clear as to what its approach is. On the one hand there is preventative or forward-looking action to safeguard the victim and/or the perpetrator, especially where there are concerns that the perpetrator themselves may have been a victim of abuse; and, on the other, there is disciplinary action to punish a perpetrator for

their past conduct. The school or college should be very clear as to which category any action they are taking falls or whether it is really both, and should ensure that the action complies with the law relating to each relevant category.

## **Working with parents and carers**

71. The school or college 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.

Schools and colleges 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.

72. It is good practice for the school or college to meet the victim's parents or carers with the victim present to discuss what arrangements are being put in place to safeguard the victim and understand their wishes in terms of support they may need and how the report will be progressed.

73. It is also good practice for the school or college to meet with the alleged perpetrator's parents or carers to discuss any arrangements that are being put into place that impact the alleged perpetrator, such as, for example, moving them out of classes with the victim and what this means for their education. The reason behind any decisions should be explained. Support for the alleged perpetrator should be discussed.

74. The designated safeguarding lead (or a deputy) would generally attend any such meetings. Consideration to the attendance of other agencies should be considered on a case-by-case basis.

75. Clear behaviour policies and child protection policies, especially policies that set out the principles of how reports of sexual violence will be managed and how victims and perpetrators are likely to be supported, that parents and carers have access to, will, in some cases, help manage what are inevitably very difficult conversations.

76. Parents and carers may well struggle to cope with a report that their child has been the victim of an assault or is alleged to have assaulted another child. Details of organisations that support parents are provided in Annex A. Schools and colleges should consider signposting parents to this support.

## **Safeguarding other children**

77. Consideration should be given to supporting children (and adult students) 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.

78. Following any report of sexual violence or sexual harassment, it is likely that some children will take “sides”. The school or college should be doing all they can to ensure both the victim and alleged perpetrator, and any witnesses, are not being bullied or harassed.

79. 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 harass the victim or alleged perpetrator online and/or become victims of harassment themselves. Specialist online safety support is discussed at paragraph 43.

80. School transport is a potentially vulnerable place for a victim or alleged perpetrator following any incident or alleged incident. The school or college, as part of its risk assessment, should consider any additional potential support needs to keep all of their children safe.

81. A whole school or college approach to safeguarding, a culture that makes clear that sexual violence and sexual harassment is always unacceptable, and a strong preventative education programme will help create an environment in which all children at the school or college are supportive and respectful of their peers when reports of sexual violence or sexual harassment are made.

82. It is important that schools and colleges keep their policies, processes and curriculum under constant review to protect all their children. Reports of sexual violence and/or harassment (especially where there is evidence of patterns of behaviour) may point to environmental and or systemic problems that could and should be addressed by updating relevant policies, processes or relevant parts of the curriculum.

## Annex A: Further information and support

	Organisation/Website/Guidance and what they do	
<b>Specialist Organisations</b>	<a href="#">Barnardo's</a>	UK charity caring for and supporting some of the most vulnerable children and young people through their range of services.
	<a href="#">Lucy Faithfull Foundation</a>	UK-wide child protection charity dedicated to preventing child sexual abuse. They work with families affected by sexual abuse and also run the confidential Stop it Now! Helpline.
	<a href="#">NSPCC</a>	Children's charity specialising in child protection with statutory powers enabling them to take action and safeguard children at risk of abuse.
	<a href="#">Rape Crisis</a>	National charity and the umbrella body for their network of independent member Rape Crisis Centres.
	<a href="#">UK Safer Internet Centre</a>	Provides advice and support to children, young people, parents, carers and schools about staying safe online.
<b>Support for Victims</b>	<a href="#">Anti-Bullying Alliance</a>	Detailed information for anyone being bullied, along with advice for parents and schools. Signposts to various helplines and websites for further support.
	<a href="#">Rape Crisis</a>	Provide and sign post to a range of services to support people who have experience rape, child abuse or any kind of sexual violence.
	<a href="#">The Survivors Trust</a>	UK-wide national umbrella agency with resources and support dedicated to survivors of rape, sexual violence and child sex abuse.
	<a href="#">Victim Support</a>	Supporting children and young people who have been affected by crime. Also provides support to parents and professionals who work with children and young people – regardless of whether a crime has been reported or how long ago it was.
	<a href="#">Brook</a>	Traffic Light Tool supports professionals working with children and young people by helping them to identify and respond appropriately to sexual behaviours.

<b>Toolkits</b>	<a href="#">NSPCC</a>	Online Self-assessment tool to ensure organisations are doing everything they can to safeguard children.
	<a href="#">Safeguarding Unit, Farrer and Co. and Carlene Firmin, MBE, University of Bedfordshire</a>	Peer-on-Peer Abuse toolkit provides practical guidance for schools on how to prevent, identify early and respond appropriately to peer-on-peer abuse.
<b>Confidentiality</b>	<a href="#">Gillick competency Fraser guidelines</a>	Guidelines to help with balancing children's rights along with safeguarding responsibilities.
	<a href="#">NSPCC: Things to know and consider</a>	Information sharing and confidentiality for practitioners - things to know and issues to consider.
<b>Information Sharing</b>	<a href="#">Information Commissioner's Office: Education</a>	Information to help schools and colleges comply with General Data Protection Regulation (GDPR).
	<a href="#">Government information sharing advice</a>	Guidance on information sharing for people who provide safeguarding services to children, young people, parents and carers.
<b>Further information on sexting</b>	<a href="#">UKCCIS: Advice for schools and colleges responding to sexting incidents</a>	Advice for schools and colleges on responding to incidents of 'sexting.' Supporting them in tackling the range of issues which these incidents present.
	<a href="#">London Grid for Learning- collection of advice</a>	Various information and resources dealing with sexting.
<b>Support for parents</b>	<a href="#">Parentzone</a>	Provides expert information and resources to help make the internet work for families.
	<a href="#">Childnet: Advice for parents and carers to keep children safe online</a>	Advice and resources to help parents and carers keep children safe online.
	<a href="#">Parentsafe- London Grid for Learning</a>	Detailed advice/resources covering various issues such as online safety, apps, and how to report concerns.
	CEOP <a href="#">Thinkuknow</a> advice for parents:  <a href="#">Challenging harmful sexual attitudes and their impact</a>  <a href="#">Supporting positive sexual behaviour</a>	Advice/resources on how to approach and deal with concerns about what children may be doing online.
		On the Thinkuknow site, this resource helps challenge harmful sexual attitudes.
		On the Thinkuknow site, advice on how to start a conversation to support positive sexual behaviour.



Department  
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