

OUSEDALE SCHOOL

SEXUAL VIOLENCE AND SEXUAL HARASSMENT BETWEEN STUDENTS POLICY

Purpose

The focus of the policy is sexual violence and sexual harassment between students at school. For the purposes of this policy, it concerns any students under the age of 18. It provides guidance on what sexual violence and sexual harassment is, how to minimise the risk of it occurring and what to do when incidents occur, or are alleged to have occurred. This policy follows the advice provided by the Department for Education on sexual violence and sexual harassment between children in schools and colleges (May 2018) and in line with the Human Rights Act 1998 and the Equality Act 2010.

For the purposes of this policy, the school uses the term 'victim' because is a widely recognised and understood term. However, the school recognises 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. The school is also prepared, when managing any incident, to use any term with which the individual student is most comfortable.

For the purpose of this policy, the school uses the term 'alleged perpetrator'. However, the school recognises that it is important to remember that, as a student, any alleged perpetrator is entitled to, deserving of, and should be provided with, a different level of support to that which might be provided to an adult who is alleged to have abused a child.

Context

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

Students 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 physical and verbal) and are never acceptable. All victims are taken seriously and offered appropriate support.

It will be made clear that sexual violence and sexual harassment is not acceptable, will never be tolerated and is not an inevitable part of growing up or dismissing sexual violence or sexual harassment as "banter", "part of growing up", or "just having a laugh"; and challenging behaviours (which are potentially criminal in nature), such as grabbing bottoms, breasts and genitalia because dismissing or tolerating such behaviours risks normalising them. Children with Special Educational Needs and Disabilities (SEND) and children who are Lesbian, Gay, Bi, or Trans (LGBT) can be especially vulnerable.

1.0 Sexual violence

1.1 When referring to sexual violence we are referring to sexual offences under the Sexual Offences Act 2003 as described below:

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

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

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

Consent: 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. 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.

2.0 Sexual harassment

2.1 When referring to sexual harassment the school means 'unwanted conduct of a sexual nature' that can occur online and offline. When the school references sexual harassment, it does so in the context of student on student sexual harassment. Sexual harassment is likely to: violate a student's dignity, and/or make them feel intimidated, degraded or humiliated and/or create a hostile, offensive or sexualised environment.

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

- sexual comments, such as: telling sexual stories, making lewd comments, making sexual remarks about clothes and appearance and calling someone sexualised names;
- sexual "jokes" or taunting;
- physical behaviour, such as: deliberately brushing against someone, interfering with someone's clothes and displaying pictures, photos or drawings of a sexual nature; and
- online sexual harassment, which might include: non-consensual sharing of sexual images and videos and sharing sexual images and videos (both often referred to as sexting); inappropriate sexual comments on social media; exploitation; coercion and

threats. Online sexual harassment may be standalone, or part of a wider pattern of sexual harassment and/or sexual violence.

- 2.3 The school will consider ages and the stages of development of the students. Sexual behaviour between students can be considered harmful if one of the students is much older, particularly if there is more than two years' difference in age or if one of the students is pre-pubescent and the other is not. The 'Brook sexual behaviours traffic light tool' could be used to help when considering harmful sexual behaviours.

3.0 Safeguarding

- 3.1 The school's approach to sexual violence and sexual harassment will be reflected in the broader approach to safeguarding and be part of 'Keeping Children Safe in Education' and will form part of the school's safeguarding training.
- 3.2 The basic safeguarding principle is: if a student has been harmed, is in immediate danger, or is at risk of harm a referral will be made to children's social care.
- 3.3 The school will comply with the relevant requirements as set out in the Equality Act 2010 to ensure they do not discriminate against any students because of their sex, race, disability, religion or belief, gender reassignment, pregnancy or sexual orientation.

4.0 Prevention

- 4.1 Preventative education will ensure students are taught about safeguarding, including how to stay safe online, as part of providing a broad and balanced curriculum.
- 4.2 The school will deliver preventative education through planned, high-quality Sex and Relationship Education (SRE) during Personal, Social, Health and Economic Education (PSHE) lessons.

5.0 Responding to reports of sexual violence and sexual harassment

- 5.1 Decisions will be made on a case-by-case basis, with the designated safeguarding lead (or a member of SLT) taking a leading role and using their professional judgment, supported by other agencies, such as children's social care and the police as required.

Some situations are statutorily clear:

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

- creating and sharing sexual photos and videos of under-18s is illegal (often referred to as sexting). This includes children making and sharing sexual images and videos of themselves.
- 5.2 The police will be important partners where a crime might have been committed. Rape, assault by penetration and sexual assaults are crimes. Where there is a report of a rape, assault by penetration or sexual assault, the starting point is it will be passed to the police and a referral to children's social care. The NSPCC (help@nspcc.org.uk) and the specialist sexual violence sector such as Rape Crisis or The Survivors Trust will also provide support and guidance.
- 5.3 The school recognises that incidents of sexual violence and sexual harassment that occur 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 the school's local community (e.g. for images or content to be shared around neighbouring schools) 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. The school will seek the support of The UK Safer Internet Centre (helpline@saferinternet.org.uk).
- 5.4 If the incident 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.

6.0 Managing the disclosure

- 6.1 All victims will be reassured that they are being taken seriously and that they will be supported and kept safe. A victim will never be given the impression that they are creating a problem by reporting sexual violence or sexual harassment or ever be made to feel ashamed for making a report.
- 6.2 The school will reasonably do all it can to protect the anonymity of any students involved in any report of sexual violence or sexual harassment. 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 in place for the students involved.
- 6.3 When there has been a report of sexual violence, the designated safeguarding lead (or a member of SLT) will make an immediate risk assessment (Appendix A). Where there has been a report of sexual harassment, the need for a risk assessment will be considered on a case-by-case basis. The risk assessment will consider:
- the victim;
 - the alleged perpetrator; and

- the other students (and, if appropriate, staff).

6.4 The risk assessments will be recorded (written or electronic) and will be kept under review. At all times, the school will be actively considering the risks posed to all the students and putting adequate measures in place to protect them and keep them safe. 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: might a crime have been committed and consideration of harmful sexual behaviour;
- the ages of the students involved;
- the developmental stages of the students involved;
- any power imbalance between the students (e.g. is the alleged perpetrator significantly older);
- if the alleged incident is a one off or a sustained pattern of abuse;
- are there ongoing risks; and
- other related issues and wider context.

6.5 The Designated Safeguarding Lead will liaise with Children's Social Care, the Police and specialist services as required.

7.0 Safeguarding and supporting the victim

7.1 The school recognises that 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 establishes the facts of the case and starts the process of liaising with children's social care and the police, the alleged perpetrator will be removed from any classes they share with the victim.

7.2 The school will also consider how best to keep the victim and alleged perpetrator reasonable distance apart on the school site and on transport to and from the school where appropriate. These actions are in the best interests of both students and are not perceived to be a judgment on the guilt of the alleged perpetrator.

- 7.3 For other reports of sexual violence and sexual harassment, the proximity of the victim and alleged perpetrator and considerations regarding shared classes, sharing the school site and school transport, will be considered immediately.
- 7.4 The school will consider every report on a case-by-case basis. When to inform the alleged perpetrator will be a decision that will be carefully considered. Where a report is going to be made to children's social care and/or the police, then the school will 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 prevent the school taking immediate action to safeguard the students where required.
- 7.5 The school will not wait for the outcome (or even the start) of a Police and children's social care investigation before protecting the victim and other students in the school. The school will work closely with children's social care (and other agencies as required) to ensure any actions it takes does not jeopardise a statutory investigation. The risk assessment will help inform any decision.
- 7.6 Consideration of safeguarding the victim, alleged perpetrator, any other students directly involved in the report and all students at the school will be immediate.
- 7.7 If a student is convicted or receives a caution for a sexual offence, the school will update its risk assessment, ensure relevant protections are in place for all the students at the school and, if it has not already, consider any suitable action in light of the behaviour policy, including permanent exclusion.
- 7.8 Where a criminal investigation into a rape or assault by penetration leads to a conviction or caution, the school will take suitable action, if not already done so consider any suitable action in light of the behaviour policy, including permanent exclusion. In all but the most exceptional of circumstances, the rape or assault constitutes a serious breach of discipline and allowing the perpetrator to remain in the school would seriously harm the education or welfare of the victim (and potentially other students).
- 7.8.1 All of the above will 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 will be kept under review.
- 7.8.2 The Designated Safeguarding Lead will balance the victim's wishes against their duty to protect the victim and other students. If the Safeguarding Lead makes a referral to Children's Services or the Police against the victim's wishes, this should be handled very carefully, the reasons should be explained to the victim and appropriate specialist support should be offered.
- 7.8.3 In all cases, the school will record and be able to justify its decision making.
- 7.8.4 If the perpetrator remains in the same school as the victim, the school will be very clear as to their expectations regarding the perpetrator now they have been convicted or cautioned. This will include expectations regarding their behaviour and

any restrictions the school thinks are reasonable and proportionate with regard to the perpetrator's timetable.

- 7.8.5 Any conviction (even with legal anonymity reporting restrictions) is potentially going to generate interest among other students in the school. The school will ensure that the victim and alleged perpetrator remain protected, especially from any bullying or harassment (including online).
- 7.8.6 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 will 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. Safeguarding and supporting the alleged perpetrator will continue.
- 7.8.7 The school will consider the age and the developmental stage of the victim, the nature of the allegations and the potential risk of further abuse. The needs and wishes of the victim will be paramount and wherever possible, the victim, if they wish, should be able to continue in their normal routine. Support will be tailored on a case-by-case basis which will include all of the school's pastoral support systems but if the trauma results in the victim being unable to cope, alternative provision or a move to another school could be considered. This will only be at the request of the victim and following a discussion with parents or carers.
- 7.8.8 In some cases of sexual harassment, the school or college may take the view that the students concerned are not in need of early help or statutory intervention. It may be appropriate to handle the incident internally utilising the school's behaviour policy and providing pastoral support.

8.0 Safeguarding and supporting the alleged perpetrator

- 8.1 The school will provide the alleged perpetrator with an education, providing safeguarding support as appropriate and implementing any discipline sanctions required.
- 8.2 The school will consider the age and the developmental stage of the alleged perpetrator and the nature of the allegations will be considered on a case-by-case basis. The alleged perpetrator may have unmet needs as well as potentially posing a risk of harm to other students. These harmful sexual behaviours may be a symptom of either their own abuse or exposure to abusive practices and or materials. The school will seek advice from social services, specialist sexual violence services and the police.
- 8.3 An alleged perpetrator may be moved to another educational institution (for any reason) but the school will be made aware fully of the situation and any ongoing support needed.

9.0 Discipline and the alleged perpetrator

- 9.1 The school will discipline students whose conduct falls below the standard expected of them in line with government advice on 'behaviour and discipline in schools' and the statutory guidance on exclusions.
- 9.2 Disciplinary action could be taken whilst other investigations by the police and/or social services are ongoing. Other investigations will not prevent the school from coming to its own conclusion, on the balance of probabilities of what happened, and imposing a disciplinary sanction on a case-by-case basis. The school will consider if, by taking any action, they would prejudice an investigation and/or any subsequent prosecution. Careful liaison with the police and/or social services will help the school make a determination.

10.0 Communication with parents/carers

- 10.1 The school will, in most cases, engage with 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 will be considered on a case-to-case basis). The exception to this is if the school suspects informing a parent or carer will put a student at additional risk. Advice will be sought from the police and social services.
- 10.2 The school may meet the victim's parents or carers to discuss what arrangements are being put in place to safeguard the victim. The school may meet with the alleged perpetrator's parents and carers to discuss any arrangements that are being put in place that impact the alleged perpetrator, such as, moving them out of classes with the victim, reduced timetable, full time in the PILC, possibly moving them to another educational establishment, any disciplinary sanctions and the support for the alleged perpetrator will be discussed.

Reviewed by Personnel Committee 10/03/2021
Approved by Full Governing Board 25/03/2021
Date of Next Review March 2022

Appendix A

Confidential Student Risk Assessment

Student Details:	Concern:
Risk Assessment undertaken by:	

Action Required to reduce risk	Who could be affected?	Risk (possible harm)	Risk rating Low Medium High	Responsibility for Action and / or supervision	When does action need to be undertaken?	Time Frame

Start date of Risk Assessment:

Review date:

End date: