

## **Newhaven School**

### **Sexual Harassment and Sexual Violence Policy**

#### **Introduction**

In December 2017 the Department for Education released advice; *Sexual violence and sexual harassment between children in schools and colleges* – advice for governing bodies, proprietors, head teachers, principals, senior leadership teams and designated safeguarding leads. The advice is to be read and referenced alongside *Keeping Children Safe in Education September 2016*.

The focus is sexual violence and sexual harassment between children at school and college, the guidance seeks to define the issues, minimise risks and what to do if an incident occurs/alleged to have occurred.

#### **Context**

*Victims and instigators of inappropriate sexual contact with other children*

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 'instigator'.

However, Newhaven will think very carefully about terminology, especially when speaking in front of children. As above, the use of appropriate terminology will be for us to determine, as appropriate, on a case-by-case basis.

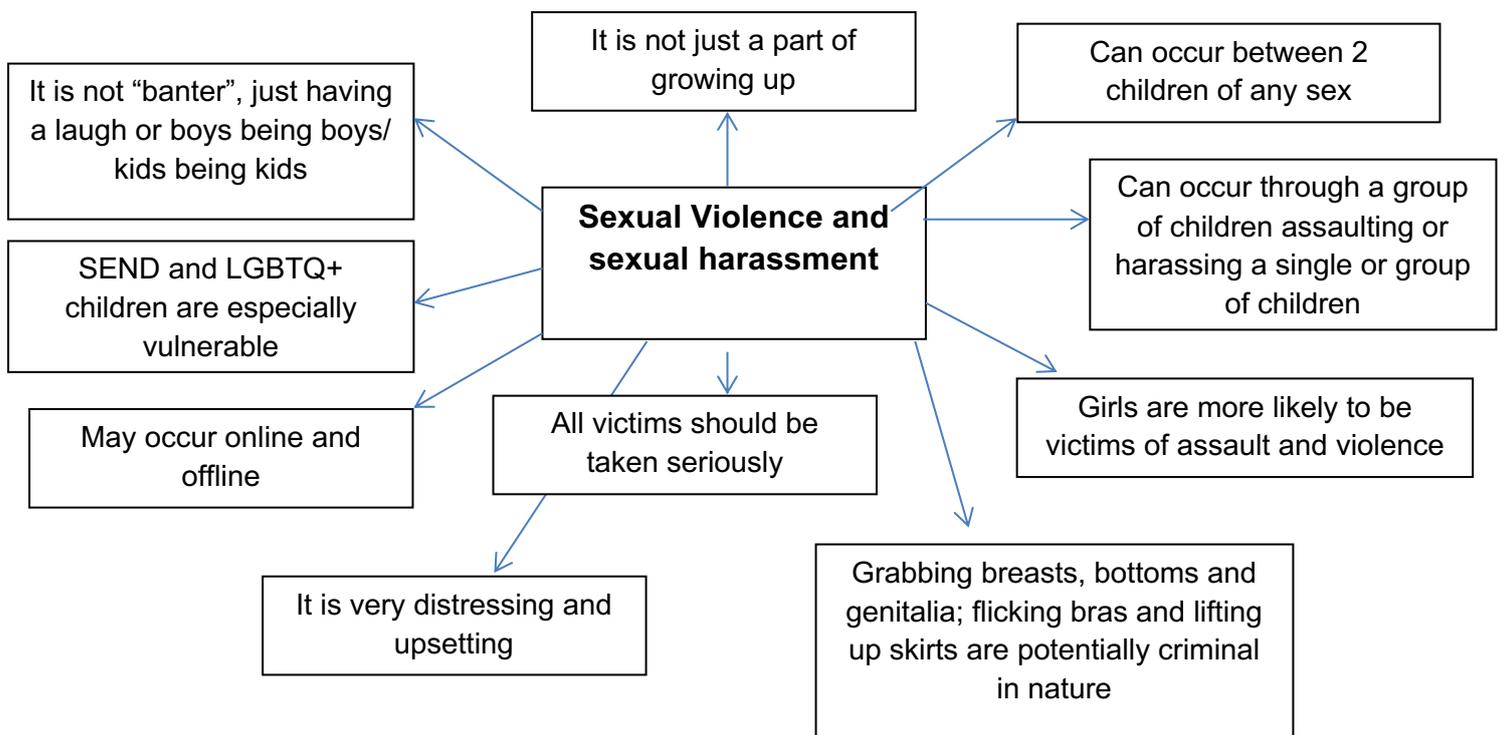
It is important to remember that, as a child, any alleged instigator is entitled to, deserving of, and should be provided with, a different level of support to that which might be provided to an adult who is alleged to have abused a child.

#### **What do we mean by sexual violence and sexual harassment between children?**

- 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.
- 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.

- 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.



## **Sexual Violence**

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

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.*

## **What is consent?**

Consent is about having the freedom and capacity to choose. Consent to sexual activity may be given to one sort of sexual activity but not another, e.g. to vaginal but not anal sex or penetration with conditions, such as wearing a condom.

Consent can be withdrawn at any time during sexual activity and each time activity occurs. Someone consents to vaginal, anal or oral penetration only if s/he agrees by choice to that penetration and has the freedom and capacity to make that choice.

*-A child under the age of 13 can never consent to any sexual activity;*

*-The age of consent is 16;*

*-Sexual intercourse without consent is rape.*

## **Sexual Harassment**

For the purpose of this policy, 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.

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

- *Sexual comments, such as: telling sexual stories, spreading sexual rumours; making lewd comments, making sexual remarks about clothes and appearance and calling someone sexualised names;*
- *Sexual “jokes”/ “banter” or taunting about a person’s sex life;*
- *Asking intrusive sexual questions;*
- *Making insulting comments about someone’s gender identity or sexual orientation*
- *Making sexually offensive or suggestive gestures or facial expressions;*
- *Physical behaviour, such as: deliberately brushing against someone, interfering with someone’s clothes (schools and colleges should be considering when any of this crosses a line into sexual violence - it is important to talk to and consider the experience of the victim) and displaying pictures, photos or drawings of a sexual nature; and*
- *Online sexual harassment.*

This may be standalone, or part of a wider pattern of sexual harassment and/or sexual violence. It may include:

- *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.*

It is important that we as a school 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.

### **How do we respond to reports of sexual violence and sexual harassment?**

Reports of sexual violence and sexual harassment are likely to be complex and require difficult professional decisions to be made, often quickly and under pressure. Guidance from the DFE is clear that it does not attempt to provide (nor would it be possible to provide) detailed advice on what we should do in any or every particular case; it provides effective safeguarding practice and principles for us to consider in our decision making process. Ultimately, all decisions in Newhaven School will be made on a case-by-case basis. The Designated Safeguarding Leads (DSLs) will take the leading role and will use their professional judgement, 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*
- *Rape, assault by penetration and sexual assault are defined in law; and*
- *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.*

Our basic safeguarding principle is: if a child has been harmed, is in immediate danger, or is at risk of harm a referral should be made to children's social care. A social worker should respond to the referrer within one working day to explain what action they will be taking.

We will usually inform parents that we are making a referral to children's social care (SPA); however, this too is on a case by case basis. It may be that we have assessed the situation and believe that a referral is needed without parental knowledge in order to safeguard students involved.

Once a referral is processed children's social care will consider if early help, section 17 and/or 47 statutory assessments are appropriate.

We will support in an early help assessment, child protection enquiry, strategy discussion and child protection conference.

We will work closely with the police as 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 should be passed to the police who will advise and log according to their own guidelines. The DSL will liaise with our Schools Safe Officer.

### **Responding to reports of sexual violence and sexual harassment online**

We are aware 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 our local community (e.g. for images or content to be shared around neighbouring schools/colleges) and for a victim (or instigator) 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.

We will act in accordance with our Anti-Bullying policy if we are made aware that our students are using online platforms which in any way jeopardises the safety of other members of our school community.

### **The immediate response to a report- managing the disclosure**

We will always do our utmost to ensure that victims are reassured that they are being taken seriously and that they will be supported and kept safe. In some cases, the victim may not make a direct report or disclosure. For example, a friend may make a report or a member of our school may overhear a conversation that suggests a child has been harmed. As with all safeguarding concerns, our staff is trained to follow the school protocol regarding the recognised signs of safety and will speak to one of the DSLs. This discussion will be handled sensitively and with the support of children's social care if required.

The following are examples of possible responses to a disclosure:

*"I am so sorry that this has happened and I believe you. This is not OK and we will take this seriously. We will do whatever we can to help you get the support you need"*

*"You did the right thing telling us about this. You are not to blame for this happening - you did nothing wrong. We will do whatever we can to help you get the support you need and in order to do this and ensure you are safe, I will have to share this information with the designated safeguarding lead"*

*"Thank you for bringing this to my attention, we need to discuss this further shall we go (safe space). Please be aware anything we discuss will be brought to the attention of SLT, this is to keep you and others safe. I will listen to you now"*

*"I want to make you aware that if you share any information which tells me that yourself or a young person is in danger of being, or has been harmed, I do have to share that. However, if that is the case I will tell you that I am going to do so and who I will tell. I will not share information unless I am legally required to do so"*

### **Our 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.
- Only sharing the report with those people who are necessary in order to progress it.

- Listening carefully to the child, being non-judgmental, being clear about boundaries and how the disclosure will be progressed, not asking leading questions and only prompting the child where necessary with open questions – where, when, what etc;

- When making a record of the disclosure we wait until the end of the disclosure and immediately write up a thorough summary and log it on our child protection recording system. This allows us to devote our full attention to the student and to listen to what they are saying. It may be appropriate to make notes during the disclosure (especially if a second member of staff is present). However, if making notes during any disclosures we are conscious of the need to remain engaged with the student;

- We make sure to only record the facts as the student presents them. The notes should not reflect the personal opinion of the note taker. We are aware that notes of such disclosures could become part of a statutory assessment by children's social care and/or part of a criminal investigation;

- Informing the designated safeguarding lead (or deputy) as soon as practically possible if the designated safeguarding lead (or deputy) are not involved in the initial disclosure.

## **Considering confidentiality and anonymity**

### *a) Confidentiality*

Staff taking a disclosure will 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. We do not consider ourselves to be experts in this area and it is vital that appropriate support is flagged up to the students and parents or organised by us for them.

The victim may ask us 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 DSLs will 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.

The starting point is that reports should be passed to the police often via our Schools Safe Officer, ultimately, the DSL will have to balance the victim's wishes against their duty to protect the victim and other children within the school setting. If we do decide to make a referral to children's social care and/or a report to the police against the victim's wishes, this will be handled extremely carefully, the reasons will in most cases be explained to the victim and appropriate specialist support offered.

#### *b)Anonymity*

Where we are aware that an allegation of sexual violence or sexual harassment is progressing through the criminal justice system, we will be mindful of anonymity, witness support and the criminal process in general so that we can offer support and act appropriately. In addition we will endeavour to do all we can to reasonably protect the anonymity of any children involved in any report of sexual violence or sexual harassment. We will carefully consider which staff in our school should know about the report and any support that will be in place for the children involved.

We are however, mindful that if an investigation is on-going it is not our place to offer guidance and support to the children and their families beyond what could reasonably be expected in regards to their education. We will also act in accordance with our Anti-Bullying policy when considering the potential impact of social media in facilitating the spreading of rumours and exposing victims' identities.

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

We will carefully consider any report of sexual violence and/or sexual harassment. 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 instigator significantly older);
- If the alleged incident is a one off or a sustained pattern of abuse (where this may be known);
- Are there on going risks; and

- Other related issues and wider context.

Where incidents and/or behaviours are associated with factors outside the school or occur between children outside the school, we will consider contextual safeguarding. This simply means assessments of children in such cases should consider whether wider environmental factors are present in a child's life that is a threat to their safety and/or welfare.

### **Recording of sexual harassment or abuse**

- All incidents to be written up on child protection form and e-mailed to relevant safeguarding lead
- Staff to record on Sims all incidents of sexual violence and/or harassment and to give as much detail as possible and ensuring that victim(s) names are not recorded
- To discuss all incidents of sexual violence or harassment in debrief

### **On-going response- safeguarding and supporting the victim**

*Newhaven will:*

**Take all allegations made seriously; it is not our job to determine fact from fiction**

*This means staff will:*

Believe all allegations made by the victim

Report and discuss with relevant safeguarding leads

Not discuss and speculate with other professionals regarding the allegation

*In addition to this staff will need to:*

- Consider the age and the developmental stage of the victim, the nature of the allegations and the potential risk of further abuse.
  - Make certain the needs and wishes of the victim are paramount (along with protecting the student) 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 their school is a safe space for them.

- Make certain the victim is not 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.
- Will look to provide a physical space for victims to withdraw and avoid any action that would have the effect of isolating the victim, in particular from supportive peer groups
- It may be necessary for us to maintain arrangements to protect and support the victim for a long time. We will do our best to continue to support this need and will continue to work with children's social care and other agencies as required.
- Aim to do all we can to reasonably protect the victim from bullying and harassment as a result of any report they have made in accordance with our Anti-Bullying Policy.
- Give all the necessary support for the victim to remain in school, but 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).

**The immediate response to the alleged instigator upon hearing/ witnessing sexual harassment/ violence**

The following examples are to provide guidance and possible responses when addressing the alleged instigator and are by no means compulsory.

Request the alleged instigator follow you to a quiet/ safe space:

*"I have just seen/ heard you do the following. This comment/ action are not ok- do you know why it is not ok?"*

*"How do you think your comment would have made that person and myself feel?"*

*" You have caused myself and possibly others to feel uncomfortable due to the sexualised comment/act you made, this is called sexual harassment and will be recorded on sims as such and discussed further in debrief".*

*"What made you say that?"*

*"What do you think the consequences are of saying what you've said?"*

## **Safeguarding and supporting the alleged instigator**

*Newhaven School will consider the following:*

On the one hand to safeguard the victim (and the wider student body) and on the other hand providing the alleged instigator with an education, safeguarding support as appropriate and implementing any disciplinary sanctions in accordance with Newhaven's behaviour policy.

- Consider the age and the developmental stage of the alleged instigator 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. Advice will be taken, as appropriate, from children's social care, specialist sexual violence services and the police.
- If it is the case that the alleged instigator is moved to another educational institution (for any reason), then we will ensure that the new educational institution is made aware of any on-going support needs.

## **What we do in Newhaven to educate our children against harmful sexual behaviours**

We have a planned programme that is delivered to students through scheduled Relationship, Sex Health Education lessons and on some occasions discussed further in assemblies and through workshops.

Our programme is developed to be age and stage of development appropriate, and tackle issues such as:

- Healthy and respectful relationships, including information on consent;
- What respectful behaviour looks like;
- Gender roles, stereotyping, equality;
- Body confidence and self-esteem; • prejudiced behaviour;
- Sexual violence and sexual harassment is always wrong; and
- Addressing cultures of sexual harassment.

We also invite organisations and speakers in to deliver information sessions to our students and parents. We have information regarding sexual assault and violence on the safeguarding pages of our website.

We ensure DSLs have appropriate and regularly updated training and all staff are trained to recognise signs of safety and harmful sexual behaviours.

### **Policy Review**

The Sexual Harassment and Sexual Violence policy is reviewed every two years. The next review date is: **November 2021**

### **Links to Other Policies**

Safeguarding

SEND

Equal Opportunities and Equality Statement

Behaviour

Health and Safety

RSHE Policy

Anti-Bullying Policy

**Date of Policy: 29/11/19**

**SLT Lead: Mr J Kelly**

**SLT Lead: Mr A Fairnie**