

Sexual Harassment and Sexual Violence

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1. Introduction

In December 2017, the Department for Education released advice; Sexual violence and sexual harassment (updated April 2021) to take into account DfE and NSPCC focus on sexual harassment and sexual violence 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 2020 (updated in January 2021). 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.

2. Context

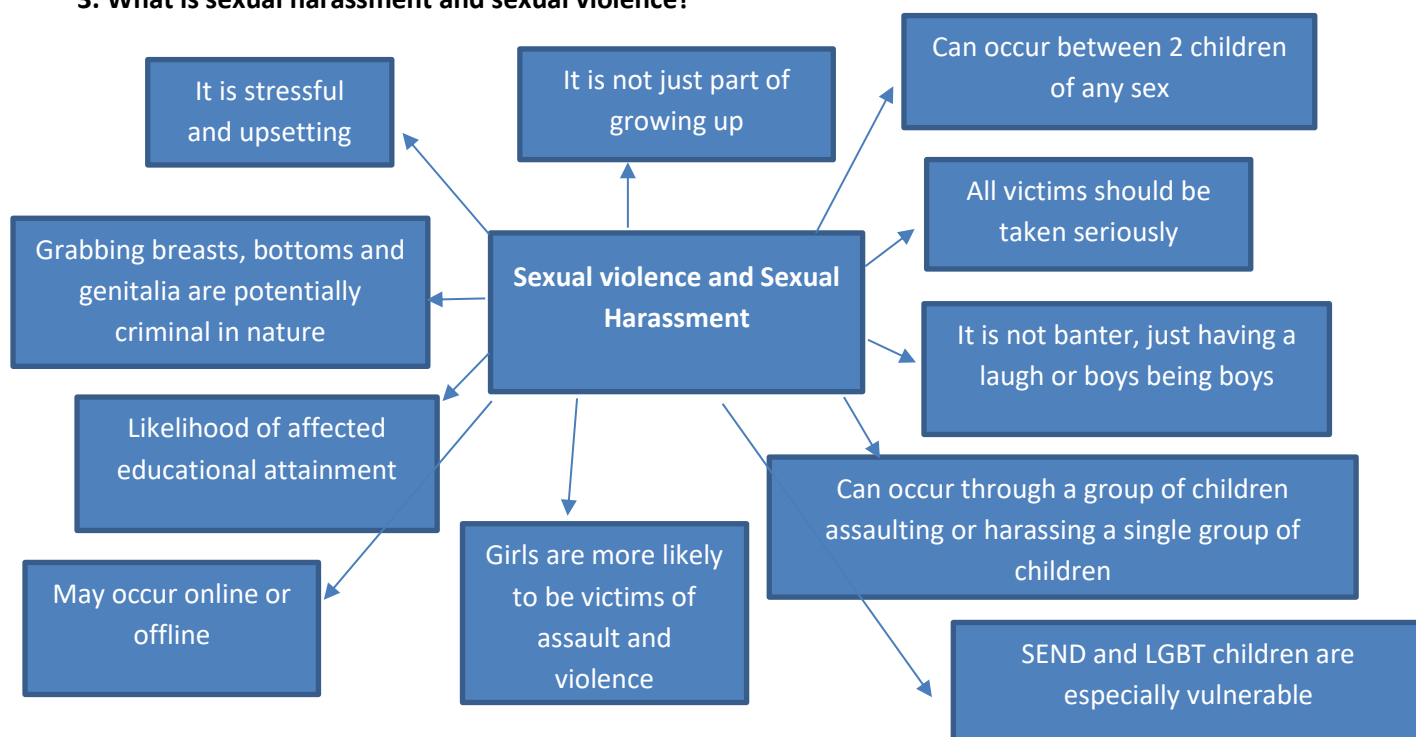
Victims and alleged perpetrators

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 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 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'. It is important to remember that, as a child, 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.

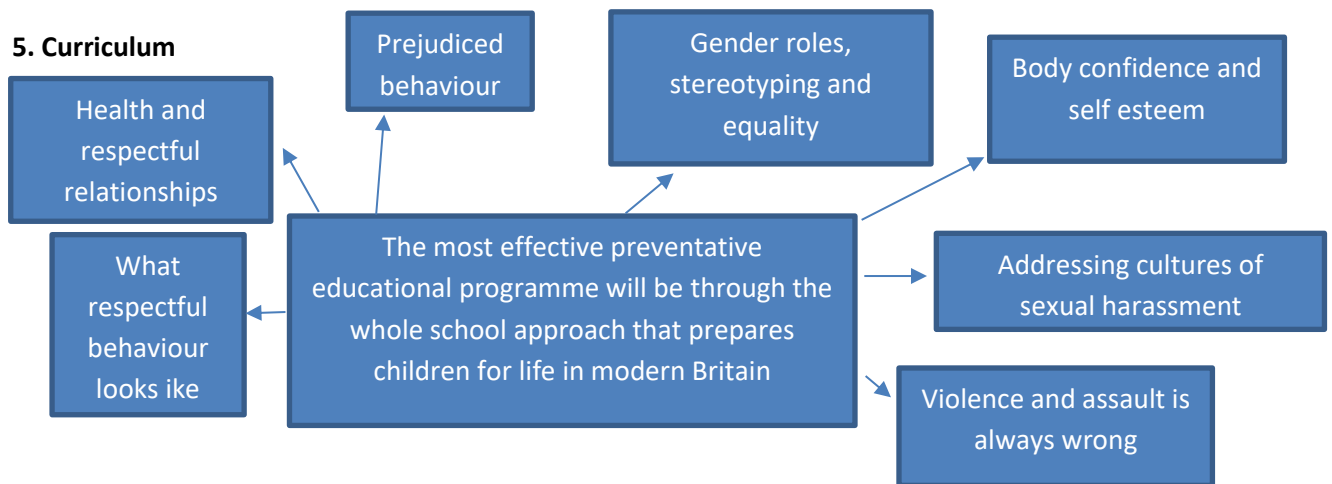
3. What is sexual harassment and sexual violence?



4. Responsibilities

Schools have a statutory duty to safeguard and promote the welfare of the children at their school. As part of this duty, schools are required to have regard to guidance issued by the Secretary of State. All schools are required by law to have a behaviour policy and measures in place to prevent all forms of bullying. All maintained schools must provide relationship education. Schools can play an important role in preventative education. Good practice is that which allows children an open forum to talk things through and all staff should be aware of how to support children and how to manage a disclosure.

5. Curriculum



6. Responding

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. Some situations are 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 (as set out at paragraph 4); 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.

Schools are not alone in dealing with sexual violence and sexual harassment; statutory partners such as Children's Services and the police may need to become involved in some cases. It is likely that any issues will extend beyond school.

Online issues and the use of various social media platforms can extend the impact of the abuse. This is also the case for children using public transport and school transport; the school still have a duty to respond to all incidents they are made aware of even if the child has not reported directly, the school duty is to promote the welfare of children and young people remains the same i.e. that friends/peers have shared their concerns to you.

It is essential that children are reassured that they are being taken seriously and will be supported and kept safe as far as is possible. A victim should never be given the impression they are creating a problem, nor should they be made to feel ashamed for making a report.

- Do not promise confidentiality
- Inform the victim of the next steps
- Be supportive and respectful
- Be non-judgemental, listen to what the child is saying to you
- No leading questions, use open questions
- Record the disclosure (devote time to listening to what the child is saying, write notes if it is appropriate)
- Only record the facts as the child presents them
- No personal opinions
- Inform the Designated Safeguarding Lead immediately

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 should speak to the relevant agency and discuss next steps and how the alleged perpetrator will be informed of the allegations.

The Designated Safeguarding Lead 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. The starting point is that reports should be passed to the police.

THE DESIGNATED SAFEGUARDING LEAD WILL MAKE A DECISION WHETHER TO CONTACT CHILDREN'S SERVICES AND THE POLICE. IF THE DESIGNATED SAFEGUARDING LEAD IS NOT AVAILABLE, IT IS THE DEPUTY DESIGNATED SAFEGUARDING LEAD'S RESPONSIBILITY TO CONTACT CHILDREN'S SERVICES AND/OR THE POLICE. LEAVING SCHOOL WITHOUT SHARING THE INFORMATION IS NOT AN OPTION.

Where there has been a report of sexual violence the Designated Safeguarding Lead should make an immediate risk assessment factoring:-

- the victim
- the alleged perpetrator

- other children (and sometimes staff)
- lessons where the victim and alleged perpetrator are together
- transport

Risk assessments should be recorded (written or electronic) and should be kept under review. A suitable risk assessment can be accessed here

<https://www.brook.org.uk/ourwork/category/sexual-behaviours-traffic-light-tool>

7. Supporting young people through criminal cases

Where an allegation of sexual violence or sexual harassment is progressing through the criminal justice system, schools

should be aware of anonymity, witness support and the criminal process in general so they can offer support and act appropriately. Further information for supporting children and young people can be located here

<https://www.cps.gov.uk/legal-guidance/safeguarding-children-victims-and-witnesses>

In addition to the legal protections, as a matter of effective safeguarding practice, schools 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 in place for the children involved. Schools

should also consider the potential impact of social media in facilitating the spreading of rumours and exposing victims' identities.

8. Thresholds

In some cases of sexual harassment, for example one-off incidents, the school 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. All concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

The school 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.

Where a child has been harmed, is at risk of harm, or is in immediate danger schools should make a referral to local children's social care.

In some cases, Children's Social Care will review the evidence and decide a statutory intervention is not appropriate. The school (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.

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.

If a child is convicted or receives a caution for a sexual offence, the school should update its risk assessment, ensure relevant protections are in place for all the children at the school and, if it has not already, and consider any suitable action in light of their behaviour policy. If the perpetrator remains in the same school as the victim, the school 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 thinks are reasonable and proportionate with regard to the perpetrator's timetable.

9. Ongoing responses

Consider the age and the developmental stage of the victim, the nature of the allegations and the potential risk of further abuse. Schools 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. 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.

Victims may not disclose the whole picture 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 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 should respect and support this choice.

This should be because the victim wants to, not because it makes it easier to manage the situation. If required, schools should provide a physical space for victims to withdraw. If the victim does move to another educational institution (for any reason), the new educational institution must be made aware of any ongoing support needed. The Designated Safeguarding Lead should take responsibility to ensure this happens as well as transferring the child protection file.

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

10. Support and specialist organisations

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| Barnardo's | www.barnardos.org.uk |
| Lucy's Faithful Foundation | www.lucyfaithfull.org.uk |
| NSPCC | www.nspcc.org.uk |
| Rape Crisis | www.rapecrisis.org.uk |
| UK Safer Internet Centre | www.saferinternet.org.uk |
| Anti- bullying Alliance | www.anti-bullyingalliance.org.uk |
| MoJ Victim support | www.rapecentre.org.uk |
| The Survivors Trust | www.thesurvivorstrust.org/lsva |
| Victim Support | www.victimsupport.org.uk |
| Gillick Competency | https://learning.nspcc.org.uk/child-protection-system/gillick-competence-fraser-guidelines |
| Parent Zone | www.parentzone.org.uk |
| Thinkuknow | www.thinkuknow.co.uk/parents |