



SEXUAL VIOLENCE, SEXUAL HARASSMENT AND HARMFUL SEXUAL BEHAVIOUR POLICY 2022

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1. RATIONALE

Tarporley High School is committed to providing a safe and respectful environment where the whole community is able to learn and thrive free from sexual violence and sexual harassment. The school takes any incidents of sexual violence or sexual harassment very seriously and is committed to handling all reports sensitively, effectively and in a timely manner.

We are clear that sexual violence and sexual harassment are not acceptable, will never be tolerated and are not an inevitable part of growing up. We will always challenge behaviour or language that seeks to normalise sexual harassment or violence in school. Sanctions and restoration will be applied in accordance with our Behaviour Policy and, where appropriate, our Anti-bullying Policy.

This policy has been developed in line with the Department for Education's sexual violence and sexual harassment between children in schools and colleges (September 2021) guidance document. The policy and procedures outlined below should also be considered alongside the school's Child Protection Policy and any relevant published government guidance.

In addition, this policy has been created alongside a series of key practical documents that staff will use and these are signposted within the policy and included as appendices.

2. DEFINITIONS AND LEGAL FRAMEWORK

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

Sexual violence and sexual harassment can occur between two children of any sex. Additionally, sexual violence and sexual harassment can 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 distressing. This will, in all likelihood, adversely affect their educational attainment. Tarporley High School will aim to support these students to access their education and get the correct specialist support, working in partnership with the Police and Children's Services.

What is the definition of sexual violence?

For the purpose of this policy, when referring to sexual violence we are referring to sexual offences under the Sexual Offences Act 2003, summarised as rape, assault by penetration, or sexual assault (intentional sexual touching).

What is sexual harassment?

When referring to sexual harassment we mean 'unwanted conduct of a sexual nature' that can occur in person, digitally and online. 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. Actions include (but are not limited to) the following:

- 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 or interfering with someone's clothes
- displaying pictures, photos or drawings of a sexual nature
- 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 youth produced sexual imagery /nudes /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

Sexual harassment creates an atmosphere that, if not challenged, can normalise inappropriate behaviours and provide an environment that may lead to sexual violence.

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. Consent can be withdrawn at any time during sexual activity and each time activity occurs.

- A child under 13 can never consent to any sexual activity
- The age of consent is 16
- Sexual intercourse without consent is rape

Special Educational Needs and Disabilities (SEND)

Children with Special Educational Needs and Disabilities (SEND) are three times more likely to be abused than their peers. 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
- communication barriers and difficulties overcoming these barriers

Protected Characteristics

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

Harmful Sexual Behaviour

Children's sexual behaviour exists on a wide continuum, from the perceived 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 Policy. 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.

3. RELATIONSHIPS and SEX EDUCATION

Prevention

School plays an important role in preventative education. Keeping Children Safe in Education sets out that all schools should ensure children are taught about safeguarding, including how to stay safe online. Addressing inappropriate behaviour helps prevent problematic, abusive and/or violent behaviour in the future.

A planned Personal, Social and Health Education curriculum as part of a whole-school approach

The most effective preventative education programme will be through a whole-school approach that prepares pupils for life in modern Britain. The school's values and standards are modelled and upheld in all aspects of school life, underpinned by the school's behaviour policy and pastoral support system.

A planned programme of evidence-based RSE content is delivered through our PSHE curriculum. This supports key messages around sexual violence and harassment and has been developed to be age and stage of development appropriate in line with our Relationships and Sex Education and Health Education Policy.

This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- Equality Act 2010
- DfE (2018) 'Keeping children safe in education'
- DfE (2019) 'Relationships Education, Relationships and Sex Education (RSE) and Health Education'
- DfE (2015) 'National curriculum in England: science programmes of study'
- The Relationships Education, Relationships and Sex Education and Health Education (England) Regulations 2019
- Children and Social Work Act 2017

For the purpose of this policy, "relationships and sex education" is defined as teaching pupils about developing healthy, nurturing relationships of all kinds, and helping them to understand human sexuality and to respect themselves and others.

The RSE curriculum is delivered primarily using our PSHE model supported by our assembly and tutor time programme and, where relevant, the subject curriculum.

Please use APPENDIX E: Sex and Relationships Education Overview

4. DISCLOURES and INVESTIGATIONS

Responding to reports of sexual violence and sexual harassment

Reports of sexual violence and sexual harassment are likely to be complex and, therefore, require difficult professional decisions to be made, sometimes 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. Nevertheless, government advice makes it clear that a disclosure regarding sexual abuse requires careful response and so all staff who receive a disclosure will consider the school's practical toolkit, "Responding to Sexual Violence and Harassment".

Please use APPENDIX C: Dealing with a disclosure checklist

Ultimately, all decisions in school will be made on a case-by-case basis. Our Designated Safeguarding Leads will remain accredited on the Brook Training on the Sexual Behaviours Traffic Light Tool to enable them to assess behaviours outlined in any disclosure.

The Designated Safeguarding Lead (DSL) and deputies 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
- creating and sharing sexual photos and videos of under 18s is illegal (often referred to as sexting, nudes or youth produced sexual imagery); 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. We will usually inform parents that we are making a referral to Children's Social Care. However, this too is on a case-by-case basis. It may be that we have assessed the situation and believe that a referral is needed without parental knowledge in order to safeguard the student(s) involved.

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.

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 be complex. There is potential for the incident(s) to take place across a number of social media platforms and services. There is also the potential for the impact of the incident to extend further than our local community (for example, 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. We will act in

accordance with our Anti-Bullying Policy if we are made aware that our students are using online platforms which may jeopardise the safety of other members of our school community.

Please use APPENDIX F: Reference terms for abuse on digital and online platforms

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. This discussion will be handled sensitively and with the support of children's social care if required.

As soon as an individual has been identified as making a disclosure or we need to approach an individual about a disclosure, we will share with them the "What Happens Next?" card.

Please use APPENDIX A: What happens next

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 publicised to students and their 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 / individual's interest; for example, to protect children from harm and to promote the welfare of children.

Ultimately, the Designated Safeguarding Leads 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.

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.

Risk Assessment

When there has been a report of sexual violence, the DSL will make an immediate risk and needs assessment. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case-by-case basis. The risk and needs assessment should consider:

- the victim
- the alleged perpetrator
- the other children (and, if relevant, staff) at school.

The risk assessments will be recorded on CPOMS and will be kept under regular review, reflecting any changes in circumstances. At all times, we will actively consider the risks posed to all our students and put adequate measures in place to protect them and keep them safe during school hours. The Designated Safeguarding Leads will continue to liaise 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.

Any such professional assessments will be used to inform our approach to supporting and protecting the student(s) and updating our own risk assessment.

Please use APPENDIX B: Risk-assessment Template

Further Investigation

Depending on the nature of the disclosure and the involvement (or not) of police and social care, it may be that agencies and / or the school conclude that school is best-placed to investigate a matter further. Where this is the case, school will consider the following:

- the wishes of the alleged victim and how they want to proceed
- the nature of the allegation
- the ages of the students involved and the risks indicated by the Brook Traffic Light Tool
- any power, coercion, age issues or links to known individuals outside school (e.g. former students)
- Ongoing risks
- Any other contextual issues
- Sanctions or restorative actions

5. RESPONSES, SUPPORT and PARTNERSHIPS

We 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, as a general rule, we will speak to the relevant agency and discuss next steps and how the alleged perpetrator will be informed of the allegations. There are four likely scenarios we will need 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 may take the view that the students 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 our Behaviour and Anti-Bullying Policies and by providing pastoral support.

2. Early Help

In line with the above, we may decide that the children involved do not require statutory interventions but may benefit from Early Help. Early Help can be particularly useful to address non-violent harmful sexual behaviour and may prevent escalation of sexual violence.

3. Referral to Children's Social Care

Where a child has been harmed, is at risk of harm or is in immediate danger, a likely course of action will be that we make a referral to local children's social care.

4. Reporting to the Police

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. Reporting to the Police will generally be in parallel with referrals to Children's Social Care.

At this stage, schools will generally inform parents unless there are compelling reasons not to do so (for example, if informing a parent is likely to put a child at additional risk). In circumstances where parents have not been informed, it will be especially important that the school supports the child in any decision they take. This should be in conjunction with the support of Children's Social Care.

Where a report has been made to the Police, the school will consult the Police and agree what information can be disclosed to staff and others; in particular, the alleged perpetrator and their parents. We will also discuss the best way to protect the victim and their anonymity.

Ongoing Considerations: victim and alleged perpetrator sharing school environment

We will consider the scenario where the victim and alleged perpetrator are sharing classes and sharing space at school. This will inevitably involve complex and difficult professional decisions, including considering our duty to safeguard children and our duty to educate them. It is important each report is considered on a case-by-case basis and risk assessments are updated as appropriate. Where there is a criminal investigation, the alleged perpetrator should be removed from any classes they share with the victim. We will consider how best to keep the victim and alleged perpetrator a reasonable distance apart on school premises. This is in the best interests of both students and

should not be perceived to be a judgement on the guilt of the alleged perpetrator; close liaison with the police is essential.

DfE guidance states that where a criminal investigation into a rape or assault by penetration leads to a conviction or caution, the school 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 would seriously harm the education or welfare of the victim (and potentially other students).

Where a criminal investigation into sexual assault leads to a conviction or caution, we will consider any suitable sanctions in light of our Behaviour Policy, including consideration of permanent exclusion (even if the incident(s) has not occurred in school). Where the perpetrator is going to remain at school, 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. The nature of the conviction or caution and wishes of the victim will be especially important in determining how to proceed in such cases.

The fact that another body is investigating or has investigated an incident does not in itself prevent school from imposing a sanction in accordance with the school's Behaviour Policy, using the balance of probabilities to draw objective and appropriate conclusions.

6. OUTCOMES and SUPPORT

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 is reported to the police and the case is not progressed or is reported to the Police and ultimately results in a not-guilty verdict. The process will have affected both victim and alleged perpetrator and these results do not necessarily mean the offence did not happen or that the victim lied. Appropriate support should be provided to both as required, and consideration will be given when considering the sharing of classes and potential contact as required on a case-by-case basis.

The nature of further support offered will again consider:

- the wishes of the alleged victim and how they want to proceed
- the nature of the allegation
- the ages of the students involved and the risks indicated by the Brook Traffic Light Tool
- any power, coercion, age issues or links to known individuals outside school (e.g. former students)
- Ongoing risks
- Any other contextual issues
- Sanctions or restorative actions

In addition, school may signpost victims to other support agencies and / or engage with these agencies on behalf of students and families.

Please use APPENDIX D: Further Support

7. MONITORING and REVIEW

The implementation of this policy will be monitored by the Headteacher, Deputy Headteachers and Designated Safeguarding Leads. In addition, the Governing Body will be provided with relevant, anonymised information regarding sexual harassment and sexual violence to enable it to carry out its oversight function. The policy will be reviewed with the Governing Body annually at the same time as other key safeguarding policies. In addition, the governor responsible for safeguarding will review annually all cases where there has been a disclosure leading to the use of this policy.

APPENDIX A: What Happens Next?

Sexual Violence, Sexual Harassment or Harmful Sexual Behaviour:

What happens next?

We cannot promise you confidentiality. We hope and believe you have shared this with us because you want help.

WE CAN:

Listen to you, take time and move at a pace you are happy with.
Use our knowledge as safeguarding specialists to assess your situation and choose the right next steps.

WE MAY:

Contact other agencies e.g. social care, police.
Investigate further and speak to other students and family members.

FOUR POSSIBLE OUTCOMES:

The school manages this internally to bring about a conclusion that supports you.

The school starts the “Early Help” process. You and your family agree to support and we work on ways to help.

The school contacts Social Care as we feel you are at risk of harm or have been harmed.

The school contacts the police as we believe a crime has been committed.

WHATEVER HAPPENS, WE WILL:

Do an immediate risk assessment to check you are safe
Offer you support and show you others who may be able to help.
Tell you what is happening and why and (if relevant) what we are going to tell others and when.
Take advice from specialists if appropriate.
Advise you on your own possible next steps.

APPENDIX B: Risk-assessment Template

RISK ASSESSMENT FOR:

- Sexual violence
- Sexual harassment
- Harmful sexual behaviour
- Harmful online behaviour with a sexual context

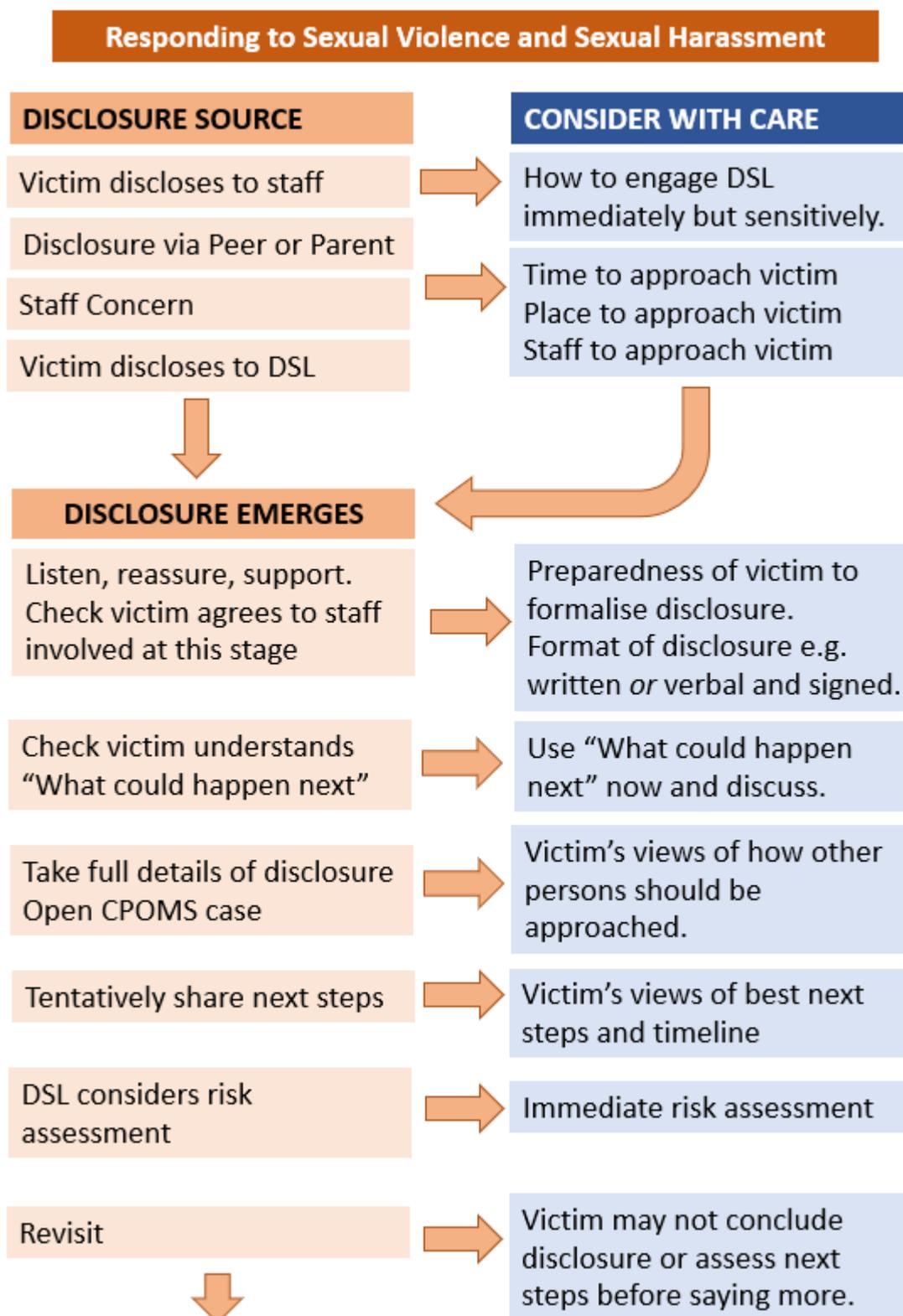
The terms victim(s) and alleged perpetrator(s) are used to identify students involved. There is no assumption of guilt, pending investigation. Each section / question will be considered from the perspective of all students including the needs of the wider school community. All concerns and proposed actions will be recorded. The school will work with local multi-agency safeguarding teams and police as necessary when completing the risk assessment. The document will be completed with reference to the *Sexual Violence, Sexual Harassment and Harmful Sexual Behaviour Policy* in which this form is placed as an appendix and all other terms of reference therein.

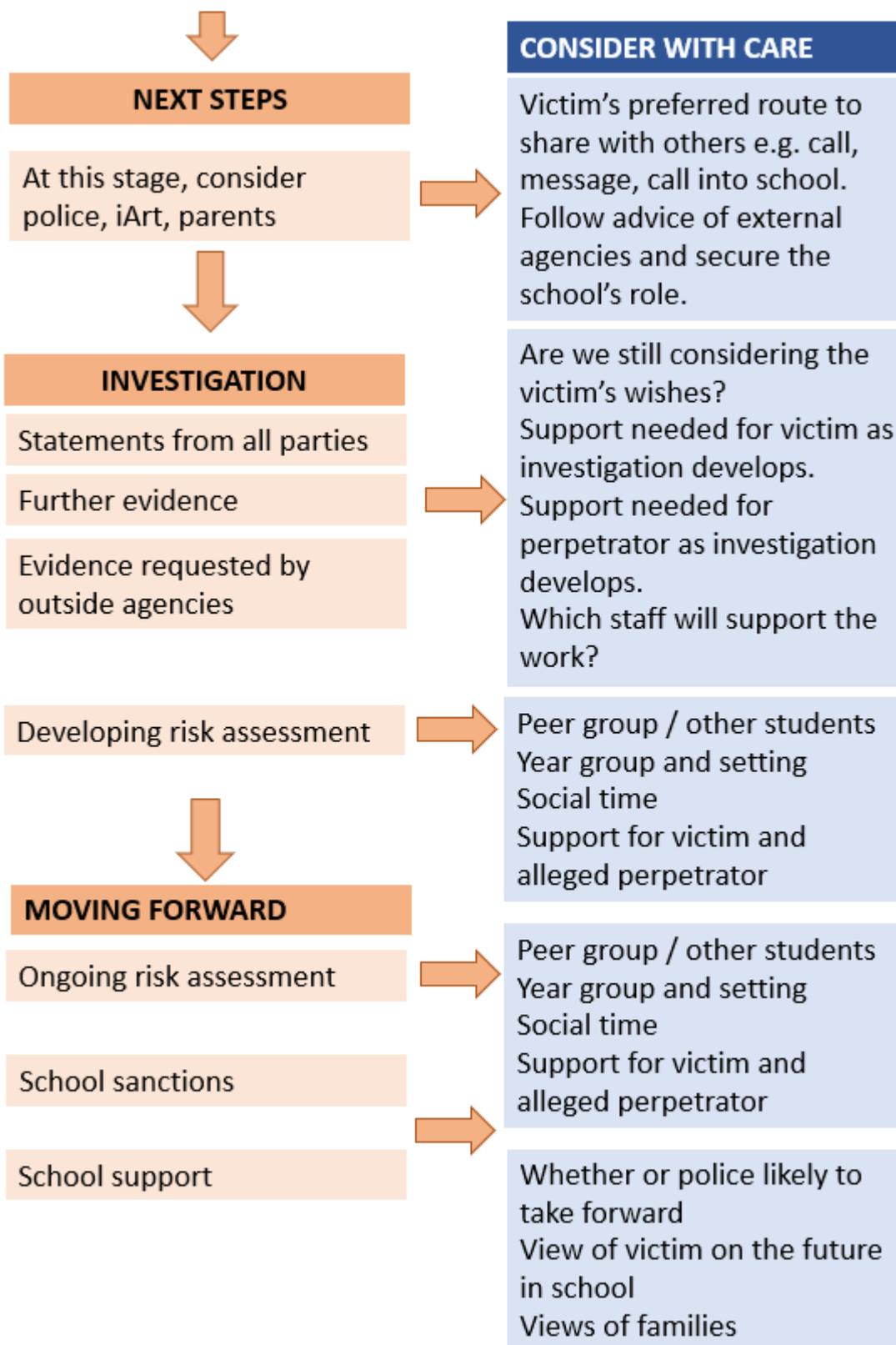
DATE OF RISK ASSESSMENT:	
VERSION OF RISK ASSESSMENT (NUMBER):	
COMPLETED BY:	
REVIEWED BY:	
STUDENTS NAMED IN THE RISK ASSESSMENT:	
STAGE OF RISK ASSESSMENT (IMMEDIATE, INVESTIGATION, REVIEW):	
REFERRED TO SOCIAL CARE / LIKELY TO BE REFERRED?	
REFERRED TO POLICE / LIKELY TO BE REFERRED?	

CONSIDERATIONS	RISK	RISK LEVEL (HIGH, MEDIUM, LOW)	ACTIONS TO REDUCE RISK	REVISED RISK LEVEL (HIGH, MEDIUM, LOW)
What is the nature of the disclosure?				
Is it necessary to limit the contact of those involved?				
Is there an actual or perceived threat to the victim or others ongoing?				
Is either the victim or the alleged perpetrator at risk of physical harm (e.g. retribution, bullying)?				
Do students share classes?				
Consider students' break and lunch times.				
Consider students' journey to school.				
Are they likely to encounter others involved outside school?				

Can this contact be limited?				
What is the role of families in ensuring students are safe?				
Are there any implications regarding social media?				
What advice has been given by outside agencies?				
Which staff are directly involved and what do they need to consider?				
Consider communication required to wider staff.				

APPENDIX C: Dealing with a disclosure checklist





APPENDIX D: Further Support

	STUDENTS	TEACHERS	PARENTS
Early help and children’s social care. The integrated access referral team are available on 0300 123 7047 (Emergency out of hours 01244 977277) and Cheshire Police.	✓	✓	✓
Children and Young People’s Independent Sexual Violence Advisors (ChISVAs). Police and social care agencies can signpost to ChISVA services.	✓	✓	✓
Cheshire without abuse https://www.mycwa.org.uk/	✓		✓
Child and adolescent mental health services (CAMHS). CAMHS Hotline: 0800 145 6485.	✓	✓	✓
Rape Crisis (England & Wales) https://rapecrisis.org.uk/	✓		✓
The Survivors Trust for details of local organisations. https://www.thesurvivorstrust.org/	✓		✓
The Male Survivors Partnership can provide details of services which specialise in supporting men and boys. https://malesurvivor.co.uk/support-for-male-survivors/directory-of-services/	✓		✓
NHS - Help after rape and sexual assault - provides a range of advice, help and support including advice about the risk of pregnancy, sexually transmitted infections (STI), reporting to the police and forensics. https://www.nhs.uk/live-well/sexual-health/help-after-rape-and-sexual-assault/	✓		✓
Rape and sexual assault referral centres services and Sexual Assault Referral Centres (SARCs) offer medical, practical and emotional support. They have specially trained doctors, nurses and support workers. If children, young people, or their families are unsure which service to access, they should contact their GP or call the NHS on 111. https://www.nhs.uk/service-search/other-services/Rape-and-sexual-assault-referral-centres/LocationSearch/364	✓		✓
Childline provides free and confidential advice for children and young people. https://www.childline.org.uk/	✓		
Internet Watch Foundation works internationally to remove child sexual abuse online images and videos and offers a place for the public to report them anonymously. https://www.iwf.org.uk/	✓	✓	✓
Childline / IWF: Remove a nude image shared online Report Remove is a free tool that allows children to report nude or sexual images and videos of themselves that they think might have been shared online, to see if they can be removed from the internet. https://www.childline.org.uk/info-advice/bullying-abuse-safety/online-mobile-safety/remove-nude-image-shared-online/	✓		
The Harmful Sexual Behaviour Support Service, developed in collaboration with the DfE, is available Monday to Friday 8am to 8pm on 0344 225 0623 or hsbsupport@swgfl.org.uk https://swgfl.org.uk/harmful-sexual-behaviour-support-service/			✓

APPENDIX E: Sex and Relationships Education Overview

In line with the DfE “Relationships and Sex Education” (secondary) Guidance and “Physical Health and Mental Wellbeing” (Secondary) guidance we will develop our students’ knowledge, awareness and understanding through the broad content areas outlined below.

During each key stage students will participate in tailored, age appropriate sessions from each ‘topic’ area below. Further information can be found in the school’s RSE and Health Education policy.

Topic	Key Content, Including relevant legal provisions
Families	<ul style="list-style-type: none"> • Stable relationships – Marriage and Long Term • What marriage is – legal status • Parenting – roles and responsibilities
Respectful relationships	<ul style="list-style-type: none"> • Positive and healthy friendships • Prejudice around stereotypes • Bullying and Cyber-Bullying • Unacceptable behaviour – sexual harassment and violence
Online and Media	<ul style="list-style-type: none"> • Rights, responsibilities and opportunities • Risks including: Impact of viewing ‘harmful’ content; impact of viewing sexually explicit material and how this can present a distorted view of self and others; sharing indecent images; dangers and legal position; - generation, collection and sharing of personal information
Being Safe	<ul style="list-style-type: none"> • Concepts and Laws relating to sexual consent and sexual harassment, exploitation and abuse.
Intimate and Sexual Relationships and Sexual Health	<ul style="list-style-type: none"> • Characteristics of healthy and positive intimate relationships • Facts about reproductive health • Facts about contraceptive choices • Facts around pregnancy and choices and options in relation to pregnancy
The Law	<ul style="list-style-type: none"> • Legal provisions should be taught alongside all the topics associated with sex and relationships. For example: marriage, age of consent, online behaviours, gender identity, pornography, abortion.

www.gov.uk/government/publications/relationships-education-relationships-and-sex-education-rse-and-health-education

APPENDIX F: Reference terms for abuse on digital and online platforms

Online sexual harassment refers to a range of behaviours where digital technologies are used to facilitate both virtual and face-to-face sexually based harms. Online sexual harassment may constitute a number of criminal offences, depending on the nature of the online harassment. Whether the conduct constitutes a criminal offence or not, many victim-survivors experience these behaviours as a form of sexual violence. Examples of online sexual harassment can be broadly split into the following areas:

- **Unsolicited sexual content online** refers to any sexual content shared online which is not wanted by the recipient. This could include content seen on apps, messaging services and websites which has not been sought out by the user.
- **Image-based sexual abuse** refers to the non-consensual creation and/or distribution of sexual images.
- **Sexual coercion, threats and intimidation online** could include a person receiving threats of a sexual nature or being coerced to engage in sexual behaviours on or offline via digital technologies.

While there are distinctions between these three categories above, there are evident overlaps and links. It is important to be aware of some of the terms that are regularly used by the general public and the media when reporting on cases and the impact that the use of these terms may have on victims and survivors of sexual abuse/harassment/violence.

THE LAWS RELEVANT TO ONLINE SEXUAL HARASSMENT IN ENGLAND

Unsolicited sexual content online

There are a number of laws in which a person could be prosecuted for sending unsolicited sexual content online, however, the act in and of itself is not yet illegal in England and Wales (though it is in Scotland). Laws which could be applied to this include the Protection from Harassment Act 1997 and some aspects of the Sexual Offences Act 2003 such as ‘causing a child to watch a sex act’ and ‘sexual communication with a child’.

Image-Based Sexual Abuse

As of 2015, it is ‘an offence for a person to disclose a private sexual photograph or film if the disclosure is made without the consent of an individual who appears in the photograph or film, and with the intention of causing that individual distress’. In April 2017, the Sentencing Council included the ‘threat to disclose intimate material or sexually explicit images’, within its guideline for offences under the Communications Act 2003 (7); however, prosecuting threats of image-based sexual abuse remains challenging.

Under the Protection of Children Act 1978, creating or sharing indecent images of a child is illegal. It is illegal if the person creating the image is under the age of 18, even if they consent to it being created, or share it with children of the same age. The Home Office Recording Rules ‘Outcome 21’ (January 2016) allows police to respond in a proportionate way to reports of youth produced sexual imagery. This states that even though a young person

has broken the law and the police may have evidence that they have done so, the police can record that they chose not to take further action as it was not in the public interest.

Since April 2019, it has been an offence to take an image or video up a person's skirt without their consent, often referred to as 'upskirting'.

Sexual coercion, threats and intimidation online

Several sections of the Sexual Offences Act 2003 could be relevant in instances of sexual coercion, threats and intimidation including 'causing or inciting a child to engage in sexual activity'. In situations of demands for sexual images where threats are made, Section 21 of the Theft Act 1968 (Blackmail) is likely to apply.

A range of persistent harassment and stalking are offences under the Protection from Harassment Act 1997. What constitutes harassment or stalking is not explicitly defined, but can include a range of actions when considering the context, nature, and duration of the acts.

Reviewed and approved by the safeguarding governor: March 2022

Approved by Governing Body: Pending

Date of next review: January 2023