Rotherham Doncaster and South Humber NHS Foundation Trust

Sexual Misconduct Policy

Trigger warning:

The contents of this policy framework may be upsetting for some colleagues to read. If you would prefer to discuss this policy or need support, please contact a manager, member of the People Experience (HR) team or the safeguarding team.

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1. Document summary

1.1 What is a people policy?

A people policy provides support, advice and guidance on how you can expect to be treated and what is expected from you.

1.2 Why we have this policy

We have signed the sexual safety in healthcare organisational charter. We are committed to a zero-tolerance approach to sexual misconduct in the workplace to create a workplace where everyone feels safe.

The Worker Protection (Amendment of Equality Act 2010) Act 2023 creates a duty on employers to take reasonable steps to stop sexual harassment from colleagues and third parties in the workplace. This includes protecting their employees and people employed by other organisations, such as suppliers or visitors, from sexual misconduct.

Sexual misconduct is unwanted behaviour of a sexual nature. It can happen to anyone, but it often happens where there is a power imbalance. People in some groups can be more vulnerable than others. For example, women, black, ethnic minority, disabled and LGBTQ+ people can be more at risk. Some people will also find it more difficult to report sexual misconduct.

This policy provides information about:

- how to recognise and report sexual misconduct
- our approach to taking actions when sexual misconduct is reported, including the other policies that might be used
- the support available to people involved or harmed. More information is in appendix 3 and 4

1.3 How this policy promotes a kind and caring culture

We want RDaSH to be a place where everyone feels safe to work, and where actions are taken to stop sexual misconduct.

This policy commits the organisation and everyone working within it to take all reports of sexual misconduct seriously and to act on all reports. A proactive approach to eliminating sexual misconduct in the workplace is crucial to promoting a safe, kind and caring culture.

1.4 How do we know this policy treats people fairly?

Whenever we write a policy, we complete an ‘equality impact assessment’ (EIA) to ensure it treats everyone fairly, and it does not disadvantage or discriminate against anyone or any protected group.

We also review our policies regularly to see how we are doing. This includes listening to colleagues’ views and reviewing information about how the policy works in practice.

1.5 Language used in this policy

1.5.1 A disclosure

If you experience or witness sexual misconduct you are encouraged to tell someone at work about your experience. This might be your manager, supervisor, a colleague or anyone else you trust including a freedom to speak up guardian, a colleague from the safeguarding team, a FTSU Champion or Guardian or a trade union representative.

It is important that the person who receives a disclosure uses the guidance in this policy on page 8 and in appendix 10.

If you make a disclosure to someone this does not mean that you have made or must make a report.

1.5.2 A Report

A report is different to a disclosure. A report involves telling someone who is in a position of responsibility or authority in the organisation about sexual misconduct that has happened to you or that you have witnessed.

A report means you are requesting that the organisation makes decisions and takes actions to stop it from happening again. Page 8 provides information about how to report sexual misconduct.

1.5.3 Review group

A review group is responsible for using the information provided by you in your report to agree what to do about sexual misconduct. Page 10 provides more information about a review group.

2. Introduction and aim

This policy has been developed with input from the national Workforce Issues Group of the NHS Social Partnership Forum. The framework is in the format suggested by NHS England.

This policy covers sexual misconduct connected to work or the workplace. Sexual misconduct can include many things, such as:

- sexual comments or jokes
- unwanted touching or kissing
- showing sexual pictures
- staring at someone in a sexual way
- asking personal questions about someone's sex life
- sexual assault or rape

Appendix 2 provides more examples.

Sexual misconduct can take place at any time and any place; for example, at social or learning events or while travelling for work. It can take place in person or online

(for example, through chat messages, phone calls, voice messages, or social media).

All NHS employees, non-executive directors, volunteers, agency and bank workers, students and learners, contractors, secondees and interns can use this policy to report sexual misconduct.

This policy provides information about the support available and about the process used to keep people safe and manage concerns and reports.

It provides advice about what to do when someone makes a disclosure about sexual misconduct to you, and a checklist of information you need to collect when someone wants to report this to the organisation.

2.1 Trauma Informed Practice

Incorporating a trauma-informed approach is essential to ensuring that all colleagues, especially those with a history of trauma, feel safe, respected, and supported in the workplace. A trauma-informed approach recognises the widespread impact of trauma and understands potential paths for recovery, acknowledging the signs and symptoms of trauma on an individual basis.

The six guiding principles of a trauma informed approach to consider when there are concerns relating to sexual safety include:

2.2 Safety

- Ensuring the physical and emotional safety of individuals impacted by sexual harm concerns is prioritised.
- Creating a supportive environment where individuals feel secure to disclose their experiences.
- Providing clear information about available support services and options, so they understand the steps being taken to ensure their safety.

2.3 Trustworthiness

- Maintain open, honest, and transparent communication throughout the process.
- Clearly explain each step in the process of providing support, including why certain actions are necessary.

2.4 Empowerment and Choice

- Giving individuals a sense of control over the support they receive, including the ability to make decisions about their care and safety.
- Encouraging them to express their preferences, concerns, and needs regarding any aspect of their situation.
- Allowing them to make choices whenever possible, such as deciding on the timing of interventions or choosing whether to involve additional support services.

2.5 Cultural Sensitivity

- Being aware of how cultural, racial, and gender identities may intersect with their experiences of sexual harm and trauma.
- Ensuring that our support is provided in a manner that is respectful, inclusive, and sensitive to the individual's cultural background and personal identity.
- Avoiding assumptions based on stereotypes and instead taking an individualised approach to each person's situation.

2.6 Collaboration

- Acknowledging an individual's expertise in their own lives and experiences and involving them in decision-making processes.
- Collaborating with them to develop safety plans and support strategies that reflect their needs and preferences.
- Ensuring that any involvement of external agencies or services is done with the individual's consent and active participation where possible.

2.7 Avoiding Re-traumatisation

- Being sensitive to the language we use and the physical space we create during interactions.
- Avoiding practices that could inadvertently trigger memories of abuse, such as intrusive questioning or actions that could be perceived as controlling.
- Respecting the autonomy of the individual throughout the process, ensuring that they feel in control of their own decisions and are treated with dignity.

By integrating these trauma-informed principles into our care and support, we aim to create an environment of trust, safety, and empowerment for individuals affected by sexual harm. Our approach is designed to provide compassionate, respectful, and individualised care that acknowledges and addresses the unique needs of the person.

3. Procedure

If you experience sexual misconduct, it is likely to be a distressing and isolating experience, and you might not know what to do next.

Sexual misconduct can take place when there are no other witnesses. This does not change the response you should receive. You will be believed and supported. If you can, write down what happened as soon as you can. Include dates, witnesses (if any) and the order that events took place, and how they made you feel. This will help you to remember the details.

It's important you speak to someone you trust, to get support and to decide what to do. This is often called a 'disclosure'.

When speaking with others, it's important that you are given the time to clearly express:

- what you need, including support
- what you want to happen next
- what you expect them to do

For example, you might discuss:

- getting help or advice from a manager or someone else
- this policy to decide how to report what happened
- that you need more time before you decide what to do

You can also get advice and support from an external organisation (listed in appendix 4).

If you decide and are ready to make a report, page 8 provides information about how to do this. Every report will be taken seriously and there is no time limit, you can make a report at any time.

3.1 People who aren't employed by the organisation

If your report is about the behaviour of someone at work, but they are not employed by the organisation, you can still make a report using this policy. The review group will liaise with the employer of the individual and will agree on the actions to support you and to prevent it from happening again.

3.2 Patients and service users

If your report is about the behaviour of a service user, patient, or a member of the public, you should speak to your manager or the person in charge as soon as possible after the event happens, if you can. This will allow them to take actions as soon as possible using the violence and aggression policy and or the safeguarding policies for example, this could include warning a patient or service user about their behaviour or reporting a criminal act to the police.

3.3 Incidents unrelated to work

If you have been affected by a sexual safety incident, including domestic violence, that is not connected with work, the reporting process in this policy is not likely to apply. However, the impact of the incident might affect you at work. If you need support, speak to your manager or a person you trust. You are encouraged to speak to the Police in these instances.

Appendix 5 provides information about support, including specialist organisations you can contact to get help.

3.4 Witnessing Behaviour

We all see behaviours happening around us every day that we do not agree with. These behaviours might not be happening to us, but we can choose to do something about them. This is often called being an 'active bystander'.

We can show others that we feel a behaviour is unacceptable. This will also give a voice to groups and individuals who may not feel able to challenge what is happening.

There may not always be a need to say something, and it may not always be safe to do so, but there are other actions we can take. These might include:

- asking someone to stop and being clear that the behaviour is inappropriate or unacceptable
- interrupting, diverting or distracting to allow someone to move away
- letting someone know you do not agree with what they are saying
- giving a disapproving look or not laughing at inappropriate jokes or comments
- asking someone else to help (for example, another colleague or security)
- seeking emergency help (call 999 if necessary)
- writing down what happened as a reminder for later action

You should speak to the person the behaviour was aimed at as soon as you can to give your support and to let them know that what you witnessed was unacceptable. Make sure you have a quiet and safe place to have this conversation, and you have enough time to talk fully.

Appendix 3 provides information about the support available to those involved.

Talk to them about what happened. Ensure they understand the reasons for reporting and ask if they agree with reporting their experience.

If they do not agree and you are worried about them or others, you should not put their name in your report. Speak to a member of the RDaSH HR team or the safeguarding team to get advice.

3.5 Supporting a colleague

When someone talks to you about what they have seen or experienced, it is called a disclosure. You need to be supportive and sensitive. Appendix 10 provides advice about what to do when a colleague discloses their experience of sexual misconduct to you.

If you think urgent actions are required, it is important to be as open as possible with them about what urgent action you need to take and why. If you believe that someone is in danger you should contact the police and report the incident.

3.6 How to make a report

It is important that sexual misconduct is reported so actions can be taken to keep people safe and to prevent it from happening again. There isn't a time limit but making a report as soon as possible will allow actions to be taken more quickly.

If you are reporting something you have witnessed, you should read page 7 and talk to the person the behaviour was aimed at before you make the report.

You can make a report yourself or you can ask the person you have disclosed to (for example, a colleague) to do this for you.

Reports may be made to:

- your manager or another manager, or a safeguarding supervisor, clinical supervisor or educational supervisor. They will ask a member of the HR team for guidance

- a member of the HR team via this inbox, rdash.sexualsafety@nhs.net
- a freedom to speak up guardian (FTSU)

A trade union representative or a domestic abuse and sexual violence ally can support you to make a report. Every report will be taken seriously.

If you give your name when you report sexual misconduct, the organisation will be able to complete a more in-depth investigation. Providing your details can help the organisation to support you and signpost or refer you to further support. All reports are taken seriously.

Provide as much information as possible, including the times of events and the impact they are having on you and others. This will ensure the person reading your report can understand what happened. The steps in this policy will be followed as closely as possible using the information you provide.

3.7 Listening to you

If you provide your name when you make a report, you will be given time to talk about what happened and discuss and agree what will happen next.

A suitable place to ensure you feel safe to talk will be agreed with you. You can bring a friend or family member, a colleague, interpreter or a trade union representative to support you.

The person you speak to will:

- ask you for information about what happened using the questions in appendix 9
- use the advice in appendix 10 about how to respond to a disclosure or report

If you have any notes or evidence, it's a good idea to take them with you to the meeting. If you don't have evidence this won't mean your concern is not taken seriously. During the meeting, we will also:

- discuss and agree how to manage your report
- discuss your wellbeing and the support you need and agree how this will be provided. Appendix 3 provides information about support
- agree next steps and who you should contact if you have any questions

If you are not clear how you would like your report to be managed, you might find that taking time to think about it or talking to someone you trust about your options helps.

If you decide to stop your report, your wishes will be respected where possible. Page 13 provides information about when the organisation might be required to continue to take action.

If you change your mind, or the behaviour continues, you can use this policy later. There is no time limit.

3.7.1 Support

The person you give your report to, will talk to you about the options for accessing help and support, including the organisations listed in appendix 4. If you are a member of a trade union, they can also provide advice and support.

Support for you to continue to work will be arranged where possible, based on advice from your organisation's occupational health service. This may involve using policies such as 'Flexible Working' or the 'Special leave policy'. Examples of support could include adjustments to your role, your working hours or location, or giving you time off to attend appointments to get help and support.

All support will be reviewed with you regularly to ensure it remains helpful and to identify any additional needs you may have.

3.7.2 If you can't attend work

If you don't feel able or well enough to attend work, you should let your manager or other person in a position of responsibility know. They will provide advice about the sickness absence policy.

If your sickness absence is a result of the sexual misconduct you have experienced at work and your absence will not be paid, or if your sick pay is reduced, you could receive injury allowance. This tops up your income (including some welfare benefits) to 85% of your usual pay during the absence. Section 22 of the NHS Terms and Conditions Handbook provides more information about injury allowance. A member of the RDaSH HR team or your trade union representative can provide advice and information about injury allowance.

3.8 After you make a report

RDaSH has a duty to ensure all employees involved with sexual misconduct cases are supported. This includes employees who have concerns raised about them. The person you made your report to, will request support from a review group to decide what to do. This will be arranged as soon as possible to ensure the report is managed quickly and in line with policies and procedures.

3.8.1 Review Group

The review group will include:

- the person you made your report to
- a member of the HR team, preferably someone who has completed specialist sexual misconduct training

It might also include:

- a senior manager
- the lead for sexual safety
- an expert, who could include:
    - a colleague from safeguarding
    - the local authority designated officer (via a LADO meeting)
    - any other person who can provide advice that is needed

Appendix 5 provides more information about expert advice.

The review group will discuss the information provided, including the harm caused to you or others, and any other information available that is important to use alongside your report. For example, if there are aggravating factors, such abuse of power over a more junior colleague.

The review group will review and make decisions about:

- actions that need to be taken quickly to prevent possible harm to you or others involved, using the template in appendix 7. For example, if the people involved work together, temporary changes to working arrangements may be needed
- assessments that might be needed to understand and mitigate against any further harm to you or others (refer to PiPoT Policy)
- the immediate support you and others involved need
- which policies or procedure(s) are relevant to managing your report
- what communication is needed to protect you and others, and to notify the right people
- whether the police or other organisations need to be contacted
- who needs to be told about the actions that have been agreed
- how you and others involved will be updated about what will happen next

The review group will use the checklist in appendix 9 to ensure that the plans to manage the report are clear. They will also ensure a record is kept.

3.8.2 Outcomes

The review group will ensure your views are considered when making decisions about how to manage your report.

One or more of these outcomes could be agreed:

- a request for more information from you or others about what happened
- using the disciplinary policy to manage your report
- using the Civility and Respect or Grievance policy to manage your report
- using the Maintaining High Professional Standards (MHPS) national framework if the report is about a doctor or dentist
- a referral to NHS England's Regional Head of Professional Standards if the report is about a GP, general dental practitioner, optometrist or ophthalmic medical practitioner working in primary care and their name is included in one of the England Performers Lists
- using safeguarding policies to agree actions
- a report to the police
- a report to the employer of the person named in the report, if they are not employed by our organisation
- no further action

3.8.3 Investigations

If an investigation is needed, it will be completed using the appropriate policy agreed by the review group.

You can ask for adjustments if you need them, and they will be agreed wherever

reasonably possible.

Examples of reasonable adjustments include:

- a friend or family member attending meetings with you to support you, in addition to a trade union representative or colleague
- using an external investigator or an investigator with specific training, skills and experience
- using an expert(s) to support the investigation

3.9 Preventing Victimisation

Victimisation is negative treatment because of being involved with discrimination or harassment complaint. It is unlawful under the Equality Act. Harassment or victimisation of anyone who has reported, or has helped someone else to report, sexual misconduct is unacceptable as is any attempt to persuade or force an employee to not raise their concerns.

Everyone will be supported when reporting sexual misconduct, whether their complaint is upheld or not.

If you believe you have been victimised, this will be taken seriously. You should report victimisation to a manager, a member of the HR team, a freedom to speak up guardian or your trade union representative.

3.9.1 Providing Information and updates

You will be given the name of the person you can go to with your questions and to get advice and support. You can also raise any concerns or discuss any further needs you have with them and they will keep you updated. This will usually be the person you report your concern to or a member of the HR team.

Due to confidentiality, not everything that happens can be shared with you, but you will receive regular updates. The information that can be shared with you will be shared with you. You will not normally be told about personal or confidential outcomes or actions relating to another employee.

3.9.2 Confidentiality

The information you share when using this policy will be kept confidential where possible. Everyone involved in the process will be informed of their responsibilities to keep information confidential. This means that only people who ‘need to know’ will receive the information because they are, or will be, involved in the process. You will be told who will receive the information, and why.

If there are safeguarding duties information may need to be shared to keep other people safe.

If you need advice or are concerned that confidentiality has not been kept you should speak to your manager, a member of the People Experience (HR team) or a trade union representative.

Confidentiality or non-disclosure agreements will not be used to stop reporting of

sexual harassment or whistleblowing.

3.9.3 Telling your manager

You will be asked how you feel about telling your manager. If you haven't told your manager, it may be helpful so they can support you and others involved. If the concern is about your manager, another manager will be asked to support you.

3.9.4 When will the person the report is about be told it has been reported?

The person the report is about will often be told about some, or all, of the report to ensure they can take part in the investigation process. This will always be done in a careful and planned way and will not happen without your knowledge.

Before the person is told, conversations will take place to agree how to support your wellbeing and safety and that of others.

3.9.5 Involving the police and other organisations

Sexual misconduct can be a criminal act. Normally, it will be your choice whether to report what happened to the police.

If your report includes information that suggests other people are at risk, including patients or colleagues, the review group will get advice from our safeguarding team.

They may need to share information with the police, the local authority designated officer (LADO) and or the relevant local authority safeguarding team. This might happen even if you do not wish to use this policy. Where possible, you will be told before actions are taken and support will be provided to you throughout the process.

3.9.6 Police Investigations

If a report has been made to the police, their investigation cannot be impacted by our organisation's own investigation process. This may mean there are delays in our organisation completing an investigation process. You will be told as soon as possible if the police ask for the process to stop or be put on hold. You will be told how long this might be for and we can discuss the support you and others involved will need during this time.

3.9.7 Statutory Regulators

Sometimes, there may be a requirement to report an employee holding a professional registration to their statutory regulator (for example, Nursing and Midwifery Council, General Medical Council, the Health and Care Professions Council, The Law Society) in line with their relevant professional code of conduct.

A member of the HR team or the 'responsible officer' for medical professionals will be responsible for reporting to professional bodies.

They may take advice from a range of individuals including the most senior person from the relevant profession within the organisation (for example, the chief nurse) before making a formal referral.

3.10 Preventing Sexual Misconduct

At RDaSH we will:

- review the likelihood and risks of sexual misconduct occurring at work from colleagues, volunteers, learners and others including patients, service users and visitors
- decide the actions that can be taken to reduce risks and prevent harm
- ensure the agreed actions are implemented and managed
- update policies and procedures to clarify the law, how everyone can expect to be treated and how to make a report
- review the effectiveness of policies and training
- communicate consistently about our values and expectations for behaviour and what actions may be taken when these are not met
- communicate with patients, service users and visitors about how we expect them to treat our staff and each other
- provide guidance and support to colleagues, helping them assist others if they witness sexual misconduct
- create a culture where people feel safe to talk about and report sexual misconduct
- ensure systems are in place to respond to reports and provide timely support to all employees impacted by sexual misconduct

Our organisation will use reports about sexual misconduct to prevent events from happening again, and to understand potential patterns and areas of concern and what is required to mitigate risks, take action, and improve the culture within teams and across the wider organisation.

4. Responsibilities

4.1 Everyone

Everyone should:

- use this policy and get advice and support to report behaviour they have experienced or witnessed
- be respectful and maintain confidentiality when using this policy
- be clear that we do not accept any form of sexual behaviour described in appendix 2 at work or linked to work

4.2 Managers, supervisors and educational supervisors

Managers, supervisors and Educational Supervisors will:

- take every conversation and report about sexual misconduct seriously
- use this policy to support everyone who is involved in a concern or report about sexual misconduct
- speak to a member of the People Experience (HR) team about all reports and concerns about sexual misconduct
- maintain confidentiality, unless there is a safeguarding concern that needs to be reported
- be clear about what is acceptable and unacceptable behaviour
- role model behaviours to create a culture where people feel safe to raise concerns and feel listened to
- attend training and development to ensure they have the required skills, knowledge and confidence to recognise sexual misconduct and take action

- ensure learning and change comes from using this policy, so that future misconduct is prevented and a positive culture is fostered
- be available to support an investigation if needed
- be proactive in putting in place any reasonable adjustments or safety actions if they are required

4.3 HR team

The HR team will:

- promote and provide support and guidance about using this policy and other people policies
- ensure that every report is managed compassionately and support is provided to everyone involved
- use specialist advice where needed and work closely with Safeguarding teams, Police and other organisations where required
- provide advice and guidance to support learning and change where it is required
- ensure accurate records are made of concerns and manage information confidentially and in line with the policy for managing records
- complete the national return for Sexual Safety Incidents where reports have resulted in formal disciplinary action.

4.4 Safeguarding team

The Safeguarding team will:

- provide specialist advice and support about safeguarding
- advise on safeguarding training and support
- provide guidance around referrals under the Person in position of trust' (PIPOT) policy and to the Local Authority designated officer (LADO)

4.5 Freedom to speak up guardian

Freedom to speak up guardians will:

- provide appropriate support and signpost to further support to those who speak up about sexual misconduct
- assist employees to make a report where appropriate
- be responsible for creating a culture where employees feel safe to raise concerns and feel listened to

4.6 Trade Union

Trade union representatives will:

- influence and guide organisations about the preventative actions they can take to improve sexual safety
- signpost to this policy, explain the process for reporting and the possible routes and outcomes
- support and assist employees to report sexual misconduct, where appropriate
- explain the options for support and help with conversations about accessing support
- provide support to their members through informal and formal processes

4.7 Senior Leaders

Senior leaders will:

- create an environment that encourages and supports colleagues to discuss and report sexual harm, without fear of retaliation or victimization
- provide leadership to support a positive and safe culture
- ensure all colleagues are aware of issues relating to sexual misconduct, the sexual misconduct policy and how to deal with disclosures appropriately

4.8 Board of Directors

The Board pf Directors will:

- prioritise principles set out in the Sexual Safety Charter, and ensure they are followed by the organisation
- guide the organisational culture and set priorities relating to sexual safety
- take actions to ensure the organisation meets its legal duties to protect employees from sexual harm in the workplace. This will include actions to improve the environment and culture, and understanding and awareness among staff of sexual safety
- encourage, support and train managers and leaders to support the use of this policy, and to build a positive culture in their teams where people can talk openly
- regularly review data about sexual misconduct and use it to agree actions to prevent sexual misconduct and protect employees from it

5. Training

It is important that everyone understands:

- what appropriate and inappropriate behaviours are
- how to use this policy
- what to do if they experience or witness inappropriate behaviours

Managers and members of the HR Team, Safeguarding Team, Freedom to Speak up Guardians (FTSU), Champions and colleagues from staff networks will undertake training on this policy and complete e-learning so they can offer support, advice and guidance to colleagues. This includes the e-learning training designed by NHS England.

Feedback and experiences from those involved in using this policy will be used to create future training and ensure continuous reflection and learning across the organisation.

6. Monitoring Arrangements

We will monitor how effective this policy is by working in partnership with trade unions and other stakeholders to collect information. This information will be used regularly to review and understand the impact of the policy on our people and how we can improve.

6.1 How many individuals use this policy and how do they use it?

- **How and who by** Number of informal or formal processes are started and completed each year by HR and Safeguarding
- **Reported to** People and Teams Group
- **Frequency** Annually

6.2 Does the extent of policy use vary across different staff or protected groups? Are there any differences in outcomes?

- **How and who by** Analysis of demographic, band and staff group data by HR and Safeguarding
- **Reported to** People and Teams Group
- **Frequency** Annually

6.3 Feedback on advice, process, ease of use and internal and external support.

- **How and who by** Review of the feedback to the HR team from individuals, trade unions, freedom to speak up guardians and staff networks.by HR and Safeguarding
- **Reported to** People and Teams Group
- **Frequency** Annually

6.4 What are the outcomes of using this policy? How much change or learning happens? What does this tell us about the culture?

- **How and who by** Analysis of number of concerns that move to disciplinary, number of appeals made and how they are resolved, outcome from confidential reports by HR and Safeguarding
- **Reported to** People and Teams Group
- **Frequency** Annually

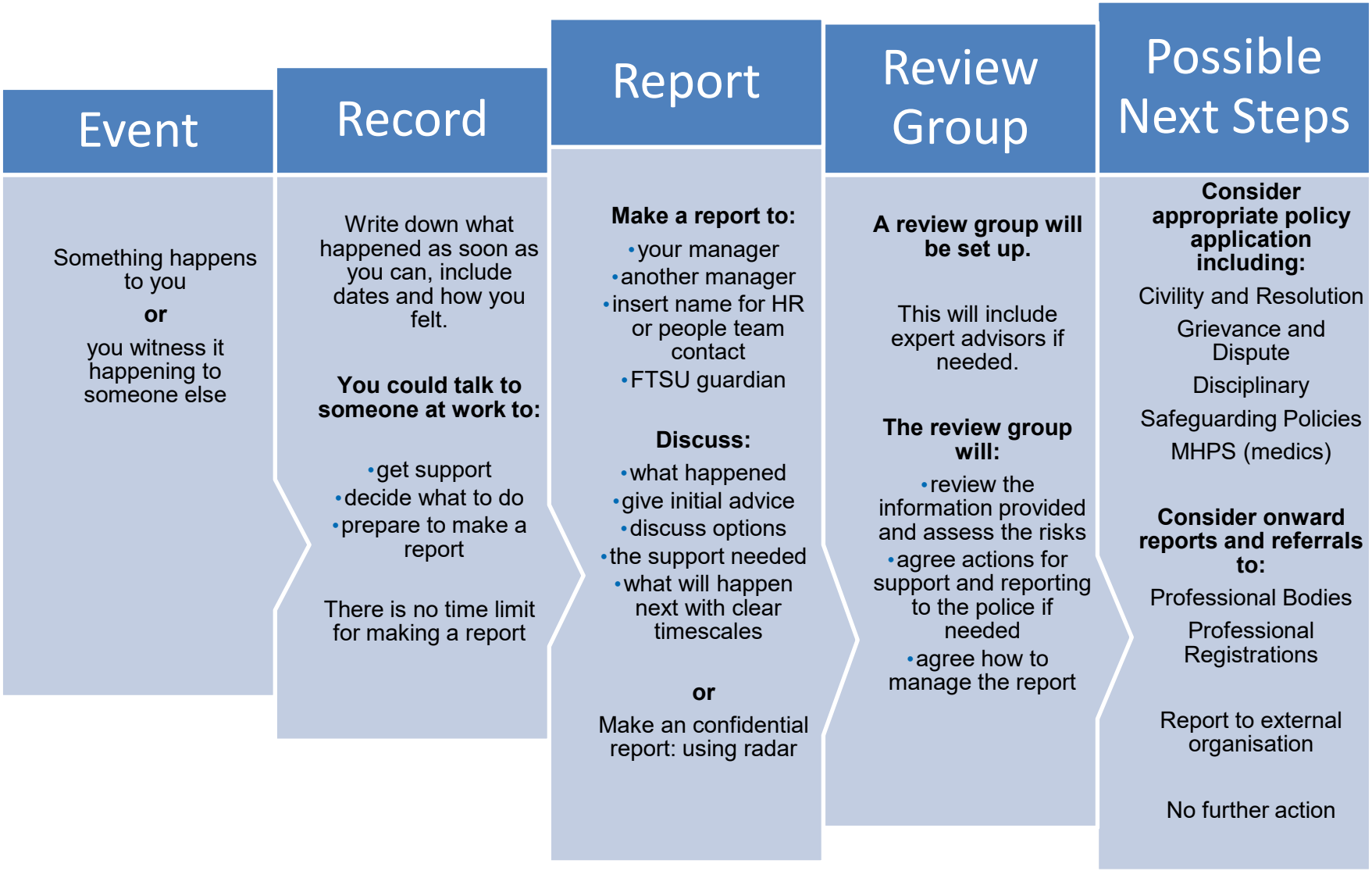
7. Related documents

Add a list of all associated policies, SOP's, manuals and documents here

8. Appendices

8.1 Appendix 1 Flowchart

This flowchart summarises the steps set out in this policy for reporting and determining how to handle cases of sexual misconduct.



8.2 Appendix 2 Language and Definitions

Sexual safety: means being free from any unwanted sexual behaviour at work.

Sexual misconduct: describes a range of behaviours including sexual assault, sexual harassment, stalking, voyeurism and any other conduct of a sexual nature that is non-consensual or has the purpose or reasonable effect of threatening, intimidating, undermining, humiliating or coercing a person. Sexual misconduct can occur between people of the same or different sex and genders.

Sexual harassment: is unwanted behaviour of a sexual nature which has:

- violated someone's dignity, whether that was intended or not
- created an intimidating, hostile, degrading, humiliating or offensive environment for them, whether that was intended or not

Sexual harassment can be a one-off incident or an ongoing pattern of behaviour. It can happen in person or in other ways, for example online through email, social media or messaging tools.

Sexual violence: describes any sexual activity or act that happened without consent.

Sexual assault: is any sexual act that a person did not consent to or is forced into, against their will.

Examples

The following are examples that might be reported using this policy. They could take place at work, or in the course of your work, during online meetings or online chats, at a work event or a party:

- sexual comments or jokes, including what might be called 'banter'
- the sharing of sexual material online (for example, sharing sexual memes or, videos by email or platforms like WhatsApp)
- sexually inappropriate behaviour on social media where colleagues are involved
- displaying or sharing sexually graphic pictures, posters or photos (or other sexual content)
- suggestive looks, staring or leering
- using power, seniority to influence others for sexual favours
- intrusive questions about a person's private or sex life, or discussing your own sex life
- flirting, gesturing or making sexual remarks about someone's body, clothing or appearance
- making sexual comments or jokes about someone's sexual orientation or gender reassignment
- touching someone against their will
- sexual assault or rape

8.3 Appendix 3 Support provided by the organisation

Health and Wellbeing Team

The trust Health and Wellbeing Team and Occupational Health team can provide support. You could also speak to a Health and Wellbeing Champion for advice and support. Further, consider accessing our Employee Assistance Programme, VIV-UP for emotional wellbeing support.

Contact details for these services can be found on the trust intranet, the trust app or through talking to your line manager or emailing the trust People's Team via this inbox, SexualSafety.RDaSH@nhs.net

Sexual harassment can be a one-off incident or an ongoing pattern of behaviour. It can happen in person or in other ways, for example online through email, social media or messaging tools.

Safeguarding Teams

Can provide advice and support to employees who disclose sexual misconduct and can signpost and refer staff to external support.

Trade Union Representatives

Can help and provide advice and support to their members about sexual misconduct at work.

They can provide advice, guidance and support, for example by attending meetings with you.

They will also help influence and guide organisations about preventative actions they can take to improve sexual safety.

Freedom to Speak Up Guardian and Champions

Can offer a confidential and safe place to speak about sexual safety and provide guidance and information about how to resolve concerns. Concerns can be raised either in person, via digital means. The details of all ways to report are within the trust Freedom to Speak up policy, available on the trust app or intranet.

8.4 Appendix 4 External support

ACAS: helpline for anyone experiencing workplace related issues including sexual harassment.

Rights of Women: have free legal advice lines for women who have experienced domestic abuse, sexual violence and sexual harassment at work.

Surviving in scrubs: provide support, share survivor stories and campaign to end sexism, harassment, and sexual assault in the healthcare workforce.

General Medical Council: What to do if you think you have been subject to sexual misconduct by a doctor: a resource for patients and colleagues.

Health and Care Professions Council: sexual safety hub provides help and guidance about making a report to that organisation.

Protect: free, confidential whistleblowing advice.

Equality Advisory and Support Service: helpline to advise on issues related to equality and human rights.

Citizens Advice: provide information about your legal rights in the workplace if you are experiencing sexual harassment.

Samaritans: support for anyone who's struggling to cope, and who needs someone to listen without judgement or pressure

Getting help for domestic violence and abuse: NHS.uk provides practical advice and help to recognise the signs and where to get help.

Supporting a survivor of sexual violence: advice from Rape Crisis about how to support a survivor of sexual violence.

NHS help after rape and sexual assault: information on the NHS website about where to find support if you have been sexually assaulted, raped or abused.

Rape Crisis England and Wales: 24/7 helpline that can provide immediate support if you have experienced sexual misconduct.

Rape Crisis Scotland: 24/7 helpline that can provide immediate support if you have experienced sexual misconduct.

Sexual assault referral centres (SARCs): offer medical, practical and emotional support to anyone who has been raped, sexually assaulted or abused. SARCs have specially trained doctors, nurses and support workers.

Galop: support LGBT+ people who have experienced abuse and violence.

The Survivors Trust: The Survivors Trust has 120 member organisations based in the UK and Ireland which provide specialist support for women, men and children who have survived rape, sexual violence or childhood sexual abuse.

SurvivorsUK: provide support to male and non-binary survivors of sexual violence, providing counselling, practical help and community on your healing journey.

Victim Support: provide specialist help to support victims of crime to cope and move on to the point where they feel they are back on track with their lives.

A list of support services on the Government's website: for victims of sexual violence and abuse.

8.5 Appendix 5 Expert advice

An expert may be asked to support the review group and an investigation.

All reports will be different, so a range of expertise and experience could be needed. That knowledge and expertise may include:

8.5.1 Knowledge

- Trauma informed interviewing and investigation techniques
- Research led case reporting
- Risk management
- Understanding of issues impacting particularly vulnerable groups
- Safeguarding

8.5.2 Skills

- Ability to identify types of sexual misconduct
- Ability to understand impacts on vulnerable groups
- Ability to undertake extensive personal interviews to elicit better information and to reduce the potential for retraumatising
- Ability to overcome barriers to disclosure while supporting employee wellbeing

8.5.3 Experience of

- Undertaking or advising on trauma informed, employment led investigations
- Supporting individuals or teams on a trauma-informed basis
- Equality, diversity or inclusion implications within sexual misconduct reports and investigations, and understanding of the vulnerabilities of particular groups
- Using subject matter expertise to aid investigations and improve decision making
- Managing disclosures of sexual abuse and misconduct

8.6 Appendix 6 Links to more help and guidance

NHS England

Sexual safety in healthcare charter

Sexual safety charter assurance framework

E-learning on understanding sexual misconduct in the workplace

Guidance on the role of domestic abuse and sexual violence allies (on FutureNHS, registration required)

NHS Employers

NHS Terms and Conditions Handbook section 32 Dignity at Work

Equality and Human Rights Commission (EHRC) guidance

Preventing sexual harassment at work: a guide for employers

Employer 8-step guide: Preventing sexual harassment at work

Guidance on managing sexual misconduct

Advice about sexual harassment at work (ACAS)

Managing discrimination from patients and their guardians and relatives (BMA)

Managing concerns (Nursing and Midwifery Council) Practitioner Performance Advice (PPA) (NHS Resolution)

8.7 Appendix 7 Record of actions to support safety and wellbeing

Use this template to record risks to safety or wellbeing and decisions agreed to manage or provide support

Anonymised details of people involved:	For example, refer to: the person who made the report and the person the report is about, rather than using names or initials.
Summary of the report:	
Expert advice provided by: **Details of the advice:**	
Has support been offered to everyone involved?	Yes or no – note response and actions
Are there safety risks? Who is impacted and how? (colleagues, service users, others) **What is the severity of impact?** **How likely is the impact to happen?**	
Decisions to support safety and wellbeing:	
Communication of decision to others that need to know: **Actions required to support the decision, for example, cover arrangements:**	

8.8 Appendix 8 Review Group (This checklist should be completed by the review group to ensure they have completed all the relevant actions)

Checklist	Details
Wellbeing and safety 1. Has support been offered to the employee who made the report and others involved? 2. Are those involved safe and are there any risks that need to be managed? 3. Has a risk assessment been completed to review and take actions to support wellbeing and safety, including actions to ensure no further harm and risks to colleagues, patients, service users or other people. See more in appendix 7.	
Find the facts 1. Do you have the facts from appendix 9 that you need? 2. Has the employee who made the report discussed a preferred outcome? 3. Do those involved work for the organisation? If not, which organisation do they work for? 4. Are there any similar live cases on file relating to the person (or people) the report is about? 5. Do other organisations have any information that is important to know, for example, another investigation. 6. If further information is needed, gather this information 7. Are there are aggravating factors, such as the abuse of power over a more junior colleague that need to be taken into account?	
Agree how to manage the report 1. Is there a requirement to get specialist advice? (for example, from safeguarding or legal). If so, record their advice 2. Following advice, is there a requirement to request advice or refer to another organisation, for example, the police, local authority designated officer (LADO), regulator? 3. Discuss and agree if another policy should be used. 4. Identify and agree who will take forward the management of the report, including how to refer to other organisations. 5. If a police report or LADO referral has or is being made, get advice about when the organisation can start to manage the report.	
Communication 1. Identify who 'needs to know' (for example, relevant managers, or other employers if one of the parties works for a different organisation) 2. Agree who will be the key point of contact for those involved and advise them of the arrangements 3. Agree regular review points (with everyone involved) 4. Have decisions and next steps been confirmed to those involved (including in writing if necessary)?	
Ensuring understanding 1. Have you ensured the employee(s) understands the reasons for actions and for the approach to how the report will be managed? 2. Have the next steps been discussed with the employee(s) involved (including a review of support)?	

8.9 Appendix 9 Questions to ask when you receive a report

Use this checklist to gather the information needed to understand what happened. If more than one incident took place, you may need to record each separately

8.9.1 Before you begin, check:

- They do wish to make a report
- If they need or want anyone to support them during the conversation
- They are clear about confidentiality and safeguarding processes that mean you may need to share information (for example, if there is a safeguarding concern)

8.9.2 Personal details:

- Name of the person making the report
- Contact details and the best time to contact them

8.9.3 Who is reporting this?:

- someone who has experienced sexual misconduct
- a witness to sexual misconduct:
    - do they have consent of the person who was affected?
    - if yes, who did it happen to?
    - if no, do not ask or record information about the person affected
    - someone who has been disclosed to about sexual misconduct

8.9.4 About the incident:

- Was it a single or multiple incidents?
- Where did the incident(s) happen?
    - virtually using either work or non-work equipment and through any virtual platform including, social media, email and messaging services
    - NHS premises
    - offsite, in the course of work, at a non-work event or a work event
    - unsure or other
- When did the incident(s) happen? If unsure, get rough dates or a range of dates
- Do they want to name the person whose behaviour they are reporting?
- Information about the behaviour(s) being reported (this doesn't need to be in lots of detail at this point)

8.9.5 Witnesses:

- Did anyone witness this behaviour?
- Do the witnesses know this report is being made?

8.9.6 Any further information the person wishes to provide? Check and discuss:

- Do they have any notes or information to help them make their report?
- Is anyone at immediate risk. Are any actions needed now?
- What support is needed? (Refer to other policies such as flexible working or special leave)
- Signpost to internal or external support (appendix 4)
- Explain that more information will be needed if an investigation takes place

- Explain the possible outcomes from the review group

8.9.7 Next steps:

- Speak to the HR team
- Set up a review group

8.10 Appendix 10 How to respond to a disclosure or report of sexual misconduct

It is important that everyone working in the NHS knows how to respond when someone makes a disclosure or report about sexual misconduct.

Each person will have different needs so you must ask how they want you or others to support them. Do not assume what they might need and do not dictate the process.

Many people feel a loss of control, so empowering them and validating their experience is vital to minimising trauma.

It is crucial to handle the conversation respectfully, sensitively and supportively. Your role is to listen to the person sharing their experience and agree on the next steps to take. Your role is not to provide counselling, clinical advice or offer retribution against the perpetrator.

Do:

- ensure they are safe
- actively listen (without having any distractions such as your phone)
- believe and validate them
- respect confidentiality but ensure they understand you may need to share information (for example if a safeguarding concern is outlined)
- safely signpost them to support (and reporting options if they haven't reported already)

Do not:

- push for details
- make assumptions
- ask why they did not say anything sooner
- be judgmental or criticise their choices
- express criticism or disbelief
- look disinterested (think about your body language)
- tell them what to do
- talk about your own experiences
- provide counselling yourself
- share their information with others unless they explicitly give you permission to do so, or there are safeguarding concerns
- ask why they did not run away or fight back
- minimise their experience and the significance of what they are sharing

For more information complete the E-learning on understanding sexual misconduct in the workplace

8.11 Appendix 11 Additional guidance for managers

8.11.1 Promoting a positive culture

As a manager you have a key role in influencing the culture within your team. This begins with behaving in a way that lets your team see that you act and manage issues (not just those about sexual misconduct) fairly and with compassion. Your ability to recognise inappropriate behaviour and act as early as possible is important. It can help support people to speak up.

This means you need to challenge behaviours that are inappropriate and be aware of situations that might be harassment. Appendix 2 provides information and examples.

It may also involve identifying underlying tensions or information that suggests unreported events or behaviours within the team.

The HR policies including Civility and Respect or Grievance policy provides information about having early conversations to reach solutions between colleagues. It is important to consider whether this is appropriate before suggesting it. In some circumstances it will not be. You should never force someone to confront a colleague or try to resolve things together if they do not wish to. Ensure that you and your team attend the training to understand what sexual misconduct is and how to make a report.

8.11.2 Getting advice and support

Receiving information or a report about sexual misconduct can be worrying and you might not have experienced this before.

It's important to get advice from a member of the HR team via contacting this inbox rdash.sexualsafety@nhs.net and the safeguarding team as soon as possible, especially if you are worried about safety.

You can do this without mentioning names in the first instance, to maintain confidentiality. It is important to remember that sometimes you may have a responsibility to escalate the report to ensure the safety of others.

If you are finding it difficult to support someone or to process information you have heard, speak to your manager or a member of the HR team via this email rdash.sexualsafety@nhs.net who can provide advice and support.

8.11.3 Relationships at work

Relationships between work colleagues can happen. Sexual misconduct can happen within a range of relationships, and it is important that professional boundaries are maintained.

The relationship might not be appropriate where there is a power imbalance, when training and career progression opportunities of one party could be impacted, or when people work closely together. To discuss a relationship between colleagues, speak to a member of the People Experience and HR team via this email link rdash.sexualsafety@nhs.net and read the relationships at work policy.

8.11.4 Receiving a report about sexual misconduct

You have an important role in ensuring reports are made effectively and dealt with. Your openness and ability to listen and take actions will show that sexual misconduct is taken seriously.

Try to remain calm and listen fully when someone reports a concern about sexual misconduct to you. This may have taken a lot of courage to raise and could be an emotional experience for them.

You should let them know you take their report seriously and you are there to help. Appendix 10 provides guidance about how to respond and provide initial support and appendix 9 provides a list of questions to ask and points to check and discuss.

Discuss and agree what will happen next. It is important that you understand their needs and expectations and are clear with them about the actions you are going to take. This might be difficult if they are feeling emotional or anxious and it might help to follow up later to check understanding.

If they are very upset, or they need more time to think about what to do, it might be helpful to give them some time and meet again at another time. Always check they have support and take actions to put support in place.