

Sexual Violence & Sexual Harassment Policy

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1. Introduction

In December 2017 the Department for Education released advice; "Sexual violence and sexual harassment between children in schools and colleges". This is advice for governing bodies, proprietors, head teachers, principals, senior leadership teams and Designated Safeguarding Leads (DSL).

The advice is to be read and referenced alongside Keeping Children Safe in Education (January 2021). Part 5 of KCSIE focusses specifically on child on child sexual violence and sexual harassment. The guidance seeks to define the issues, minimise risks and what to do if an incident occurs/alleged to have occurred.

We are clear that sexual violence and sexual harassment is not acceptable, will never be tolerated. It is not an inevitable part of growing up. We will always challenge and educate behaviour or language that seeks to normalise sexual harassment or violence in school.

2. Context

Victims and alleged perpetrators

There are many different ways to describe children and young people (CYP) who have been subjected to sexual violence and/or sexual harassment and many ways to describe those who are alleged to have carried out any form of abuse. For the purposes of this advice, we use the term 'victim'. It is a widely recognised and understood term. It is important that schools and colleges recognise that not everyone who has been subjected to sexual violence and/or sexual harassment considers themselves a victim or would want to be described in this way. Ultimately, schools and colleges should be conscious of this when managing any incident and be prepared to use any term with which the individual child or young person is most comfortable. For the purpose of this advice we also use the term 'alleged perpetrator'. It is important to remember that, as a child or young person, 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 or young person.

What to be aware of

All staff working with children are advised to maintain an attitude of 'it could happen here'. All Trust personnel should be aware of, and respond appropriately to all reports and concerns, including those outside the school or college, and or online. Personnel should be aware of the importance of:

- making clear that there is a zero-tolerance approach to sexual violence and sexual harassment and it is never acceptable, and it will not be tolerated and it should never be passed off as “banter”, “just having a laugh”, “part of growing up” or “boys being boys”. Challenging physical behaviour (potentially criminal in nature), such as grabbing bottoms, breasts and genitalia, pulling down trousers, flicking bras and lifting up skirts. Dismissing or tolerating such behaviours risks normalising them; and
- not recognising, acknowledging or understanding the scale of harassment and abuse and/or downplaying some behaviours related to abuse as it can lead to a culture of unacceptable behaviour, an unsafe environment and in worst case scenarios a culture that normalises abuse leading to children accepting it as normal and not coming forward to report it; and
- understanding that all of the above can be driven by wider societal factors beyond the school and college, such as everyday sexist stereotypes and everyday sexist language. This is why a whole school/college approach (especially preventative education) is important.

Children with Special Educational Needs and Disabilities

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; and
- communication barriers and difficulties overcoming these barriers.

Any reports of abuse involving children with SEND will therefore require close liaison with the designated safeguarding lead (or deputy) and the special educational needs co-ordinators (SENCOs) or the named person with oversight for SEN in a college.

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

Trust personnel should be aware that their staff can be victims of sexual violence and sexual harassment. School should have arrangements in place to protect staff from such abuse, including clear reporting and support mechanisms.

3. What is sexual harassment and sexual violence?

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

Victims of sexual violence and sexual harassment will likely find the experience stressful and distressing.

Sexual harassment and sexual violence is not 'part of growing up'.

Children and young people who have a special educational need and/or disability (SEND) or who identify as LGBTQ+ are particularly vulnerable to sexual harassment and sexual violence.

Definitions

Sexual violence

It is important that schools and colleges are aware of sexual violence and the fact that children and young people can, and sometimes do, abuse their peers in this way.

When referring to sexual violence in this advice, we do so in the context of child-on-child sexual violence namely, sexual offences under the Sexual Offences Act 2003 as defined, below:

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

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

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

Causing someone to engage in sexual activity without consent: A person (A) commits an offence if: s/he intentionally causes another person (B) to engage in an activity, the activity is sexual, B does not consent to engaging in the activity, and A does not reasonably believe that B consents. (NOTE – this could include forcing someone to strip, touch themselves sexually, or to engage in sexual activity with a third party).

What is consent? Consent is about having the freedom and capacity to choose. Consent to sexual activity may be given to one sort of sexual activity but not another, e.g. to vaginal but not anal sex or penetration with conditions, such as wearing a condom. Consent can be withdrawn at any time during sexual activity and each time activity occurs. Someone consents to vaginal, anal or oral penetration only if s/he agrees by choice to that penetration and has the freedom and capacity to make that choice.

All DMAT personnel, particularly Designated Safeguarding Lead (and Deputies), should understand "consent". This will be especially important if a child or young person is reporting they have been raped. It is important to differentiate between consensual sexual activity between children and young people of a similar age and that which involves any power imbalance, coercion or exploitation. Due to their additional training, the Designated Safeguarding Lead (or Deputy) should be involved and generally speaking, leading the school or college response. If in any doubt, they should seek expert advice.

Sexual harassment

When referring to sexual harassment we mean 'unwanted conduct of a sexual nature' that can occur online and offline. When we reference sexual harassment, we do so in the context of child-on-child sexual harassment.

Sexual harassment is likely to: violate a child's dignity, and/or make them feel intimidated, degraded or humiliated and/or create a hostile, offensive or sexualized environment. Whilst not intended to be an exhaustive list, sexual harassment can include:

Sexual comments, such as: telling sexual stories, making lewd comments, making sexual remarks about clothes and appearance and calling someone sexualized names;

Sexual "jokes" or taunting;

Inappropriate physical behaviour. This could include: deliberately brushing against someone, interfering with someone's clothes displaying pictures, photos or drawings of a sexual nature; and;

Online sexual harassment.

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

- non-consensual sharing of sexual images and videos.
- sexualised online bullying;
- unwanted sexual comments and messages, including, on social media; and
- sexual exploitation; coercion and threats.
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Harmful sexual behaviour

Children's sexual behaviour exists on a wide continuum, ranging from 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" (HSB). The term has been widely adopted in child protection and is used in this advice. HSB can occur online and/or face-to-face and can also occur simultaneously. The Voyeurism (Offences) Act 2019 which amends the Sexual Offences Act 2003 to make upskirting a specific offence of voyeurism. The Act came into force on 12 April 2019. Project deSHAME from Childnet provides useful research, advice and resources regarding online sexual harassment. [Project deSHAME | Childnet](#) Consensual image sharing, especially between older children of the same age, may require a different response. It might not be abusive – but children still need to know it is illegal- whilst non-consensual is illegal and abusive. between the two. HSB should be considered in a child protection context. When considering HSB, both ages and the stages of development of the children are critical factors. Sexual behaviour between children can be considered harmful if one of the children is much older, particularly if there is more than two years' difference or if one of the children is pre-pubescent and the other is not. However, a younger child can abuse an older child, particularly if they have power over them, for example, if the older child is disabled or smaller in stature. It is effective safeguarding practice for the designated safeguarding lead (and their deputies) to have a good understanding of HSB. This could form part of their safeguarding training. This will aid in planning preventative education, implementing preventative measures, drafting and implementing an effective child protection policy and incorporating the approach to sexual violence and sexual harassment into the whole school or college approach to safeguarding. HSB can, in some cases, progress on a continuum. Addressing inappropriate behaviour can be an important intervention that helps

prevent problematic, abusive and/or violent behaviour in the future. Children displaying HSB have often experienced their own abuse and trauma. It is important that they are offered appropriate support

4. Responsibilities

Schools and colleges have a statutory duty to safeguard and promote the welfare of the children and young people at their school/college. As part of this duty, schools and colleges are required to have regard to guidance issued by the Secretary of State. In particular, all schools must have regard to Keeping Children Safe in Education and Working Together to Safeguard Children.

All schools are required by law to have a behaviour policy and measures in place to prevent all forms of bullying. All maintained secondary schools must teach sex and relationship education, schools and colleges can play an important role in preventative education. Good practice is that which allows children and young people an open forum to talk things through and all staff should be aware of how to support children and young people and how to manage a disclosure.

Schools and colleges should consider the makeup of their own pupil and student body, including the gender and age range of its children and young people, and whether additional support for those with protected characteristics (who are potentially at greater risk) is appropriate.

Safeguarding and child protection should be a recurrent theme running through policies and procedures. The school's approach to sexual violence and sexual harassment should reflect and be part of the broader approach to safeguarding. Ultimately, all systems, processes and policies should operate with the best interests of the child at their heart.

The school's safeguarding procedures with regard to sexual violence and sexual harassment should be transparent, clear and easy to understand for staff, pupils, students, parents and carers.

Systems should be in place (and they should be well promoted, easily understood and easily accessible) for children to confidently report abuse, sexual violence and sexual harassment, knowing their concerns will be treated seriously, and that they can safely express their views and give feedback.

Extra-familial harms

All personnel should be aware that safeguarding incidents and/or behaviours can be associated with factors outside the school and/or can occur between children outside of these environments. All persons, but especially the Designated Safeguarding Lead (and deputies) should consider whether children are at risk of abuse or exploitation in situations outside their families. Extra-familial harms take a variety of different forms and children can be vulnerable to multiple harms including (but not limited to), sexual exploitation, criminal exploitation, sexual abuse, serious youth violence and county lines.

All personnel should be aware that technology is a significant component in many safeguarding and wellbeing issues. Children are at risk of abuse online as well as face to face. In many cases abuse will take place concurrently via online channels and in
Further information about child sexual exploitation (CSE), child criminal exploitation (CCE), serious youth violence and county lines can be found in Part One and Annex B of KCSIE .Children can

also abuse their peers online, this can take the form of abusive, harassing, and misogynistic messages, the non-consensual sharing of indecent images, especially around chat groups, and the sharing of abusive images and pornography, to those who do not want to receive such content. In all cases, if personnel are unsure, they should always speak to the designated safeguarding lead (or deputy).

Children's social care assessments should consider where children are being harmed in contexts outside the home, so it is important that schools provide as much information as possible as part of the referral process. This will allow any assessment to consider all the available evidence and enable a contextual approach to addressing. The Adolescent Safety Framework (Safer Me) protocol should be followed at all times. <https://www.dcfp.org.uk/child-abuse/adolescent-safety-framework-quick-guide/>

5. Curriculum Foci

The most effective preventative education programme will be through the whole school approach that prepares children and young people for life in modern Britain and includes:

- Healthy and respectful relationships; including rape and consent (RSHE)
- What respectful behaviour looks like
- Prejudiced behaviour
- Gender, roles, stereotyping and equality including toxic masculinity
- Body confidence and self-esteem
- Addressing cultures of sexual harassment including rape and consent
- Reinforcing that violence and assault are always wrong

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 or young person under the age of 13 can never consent to any sexual activity;
- The age of consent is 16;
- Sexual intercourse without consent is rape;
- Rape, assault by penetration and sexual assault are defined in law; and
- Creating and sharing sexual photos and videos of under-18s is illegal (often referred to as sexting). This includes children and young people making and sharing sexual images and videos of themselves.

It is important that all schools and colleges within DMAT follow the guidance; as outlined in Part 5 of KCSIE.

Schools and colleges 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 or college, online issues and the use of various social media platforms can extend the impact of the abuse. This is also the case for children and young people using public transport and school transport; the school and college still

have a duty to respond to all incidents they are made aware of even if the child or young person has not reported directly.

It is essential that children and young people 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.

The school's response protocol (refer also to the *DMAT Child Protection & Safeguarding Policy*)

At DMAT we recognise that a child or young person is likely to disclose to someone they trust: this could be anyone on the school or college staff. Therefore, it is essential that all staff are aware of the response protocol.

- Do not promise confidentiality
- Inform the victim of the next steps
- Be supportive and respectful
- Be non-judgmental and listen to what the child or young person is saying to you (*TED* questions; *Tell me, Explain, Describe...*)
- No leading questions, use open questions
- Record the disclosure via CPOMS (devote time to listening to what the child is saying, write notes if it is appropriate and then transfer or scan/upload facsimiles to CPOMS verbatim and in the child's/young person's words.
- Only record the facts as the child or young person presents them
- No personal opinions should be recorded.
- Inform the Designated Safeguarding Lead (or in their absence their Deputy) **immediately.**

Where the report includes an online element, it is important for DMAT schools and colleges to be aware of searching, screening and confiscation advice (for schools) and UKCIS sexting advice (for schools and colleges). <https://www.gov.uk/government/organisations/uk-council-for-internet-safety>

The key consideration is for staff not to view or forward illegal images of a child. The hyperlinked advice provides more details on what to do when viewing an image is unavoidable.

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 (via Devon Multi Agency Safeguarding Hub – MASH) and/or the police, then, as a general rule, the school or college 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 that: 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 (MASH – the Multi Agency Safeguarding Hub) ; 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 CHILDRENS SERVICES (MASH) AND THE POLICE. IF THE DESIGNATED SAFEGUARDING LEAD IS NOT AVAILABLE IT IS YOUR RESPONSIBILITY TO CONTACT CHILDRENS SERVICES AND/OR THE POLICE.
LEAVING SCHOOL/COLLEGE 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 in:-

- the victim, especially their protection and support
- the alleged perpetrator
- other children or young people (and sometimes staff)
- lessons/classes 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 initial risk assessment framework can and should be accessed via the DMAT DSL/DDSL TEAMS resource area. It utilises the DMAT preferred risk assessment protocol namely, the **Brook Traffic Light Tool**. DSL's will access and complete Brook Traffic Light training to support this activity. This approach should be used to inform a formal **Risk Assessment & Management Plan (RAMP)** a template for which is also available from the TEAMS resource area (above). (See also the DMAT Child Protection & Safeguarding Policy).

At all times, DMAT schools and colleges should actively consider the risks posed to all their children and young people and put adequate measures in place to protect them and keep them safe. This includes alleged perpetrators as well as alleged victims. Without prejudice and with the agreement of the school Principal, alleged perpetrators may receive their educational entitlement at a suitable physical distance (in alternative rooms, buildings etc) from their alleged victim(s) in order to safeguard all parties. Such arrangements should be made clear in RAMP documentation.

The logging of incidents via CPOMs will enable DSLs and senior leaders to maintain an overview of issues being reported. This data is required for any Ofsted inspection.

7. Supporting young people through criminal cases

Where an allegation of sexual violence or sexual harassment is progressing through the criminal justice system, schools and colleges 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 and colleges should do all they reasonably can to protect the anonymity of any children or young people 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 and young people involved. Schools and colleges should also consider the potential impact of social media in facilitating the spreading of rumours and exposing victims' identities.

8. Thresholds

As always when concerned about the welfare of a child or young person, all staff should act in the best interests of the child. In all cases, schools and colleges should follow general safeguarding principles as set out in the DMAT safeguarding and child protection policy. Immediate consideration should be given as to how best to support and protect the victim and the alleged perpetrator (and anyone else involved/impacted)

In some cases of sexual harassment, for example one-off incidents, the school or college may take the view that the children and young people 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 (on CPOMS). The designated safeguarding lead (or deputy) is likely to have a complete safeguarding picture and be the most appropriate person to advise on the school's or college's initial response.

The school or college 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 or young person's life. Providing Early Help is putatively more effective in promoting the welfare of children and young people 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 or young person has been harmed, is at risk of harm, or is in immediate danger schools and colleges 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 or college (generally led by the Designated Safeguarding Lead or a deputy) should be prepared to refer again if they believe the child or young person 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 that this should be passed on to the police. Any report to the police will generally be in parallel with a referral to children's social care.

If a child or young person is convicted or receives a caution for a sexual offence, the school or college should update its risk assessment (RAMP – Risk Assessment & Management Plan), ensure relevant protections are in place for all the children and young people at the school or college 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 or college as the victim, the school or college 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 or college thinks are reasonable and proportionate with regard to the perpetrator's timetable.

9. Ongoing responses

School safeguarding personnel (the DSL and/or DDSL) should consider the age and the developmental stage of the victim, the nature of the allegations and the potential risk of further abuse. Schools and colleges should be aware that, by the very nature of sexual violence and

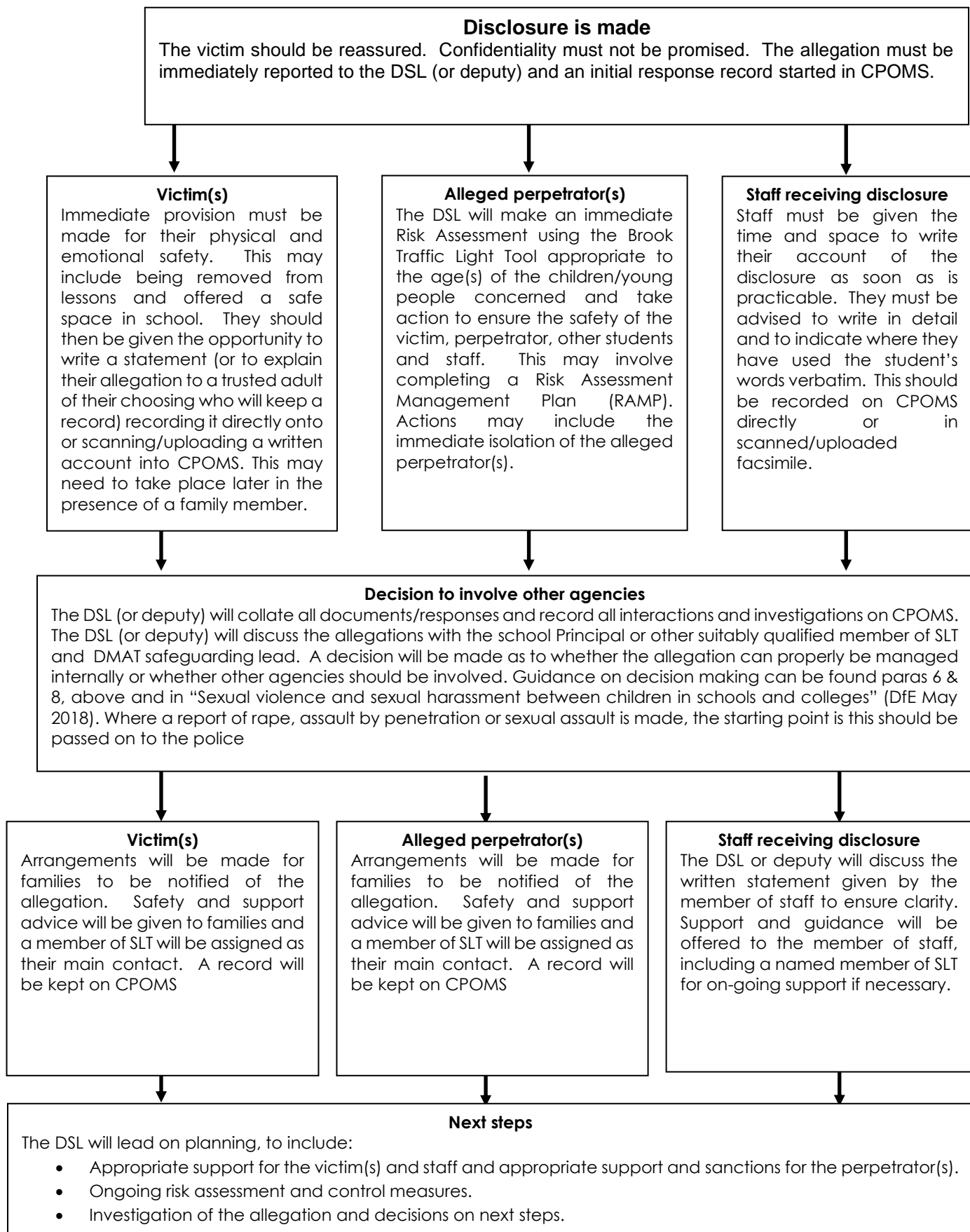
sexual harassment, a power imbalance is likely to have been created between the victim and alleged perpetrator.

School safeguarding personnel should 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 and colleges 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 victims.* Schools and colleges should respect and support this choice. 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. This should be because the victim wants to, not because it makes it easier to manage the situation. If required, schools and colleges 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 and young people will take "sides". The school or college should do all they can to ensure both the victim and alleged perpetrator, and any witnesses, are not being bullied or harassed.

10. School initial action flowchart



11. Support and specialist organisations

Below is provided an illustrative but not exhaustive list of specialist organisations that are available to support:

- Devon Sexual Abuse Referral Centre (SARC). <https://sarchelp.co.uk/>
- Brook <https://www.brook.org.uk/>
- Barnardo's <https://www.barnardos.org.uk>
- CAMHS
- Lucy Faithfull Foundation <https://www.lucyfaithfull.org.uk>
- NSPCC <https://www.nspcc.org.uk>
- RSHE implementation guidance ASCL, NAHT, NEU, The PSHE Association
- The PSHE Association
- Rape Crisis <https://rapecrisis.org.uk>
- UK Safer Internet Centre <https://www.saferinternet.org.uk>
- Digital Awareness UK
- Anti-Bullying Alliance <https://www.anti-bullyingalliance.org.uk>
- MoJ Victim Support <https://www.rapecentre.org.uk>
- The Survivors Trust <http://thesurvivorstrust.org/isva>
- Male Survivor's Partnership <https://malesurvivor.co.uk/>
- Victim Support <https://www.victimsupport.org.uk>
- Gillick Competency <https://www.nspcc.org.uk/preventing-abuse/childprotection-system/legal-definition-child-rights-law/gillick-competency-fraser-guidelines>
- Parent Zone <https://parentzone.org.uk>
- Childline/IWF: <https://www.childline.org.uk/info-advice/bullying-abuse-safety/online-mobile-safety/remove-nude-image-shared-online/>
- Internet Watch Foundation <https://www.iwf.org.uk/>
- Thinkuknow <https://www.thinkuknow.co.uk/parents>
- Contextual Safeguarding Network <https://contextualsafeguarding.org.uk/>
- UKCIS <https://www.gov.uk/government/organisations/uk-council-for-internet-safety>

<https://www.childnet.com/what-we-do/our-projects/project-deshame/>