

CONTROLLED DOCUMENT

SEXUAL MISCONDUCT POLICY

Type of Document	Policy		
Purpose	To ensure everyone working, volunteering, visiting and learning at UHB understands their rights and responsibilities in creating a sexually safe environment, and to guide people in recognising and reporting sexual misconduct at work.		
Controlled Document Number	1447	Version Number	1.2
Document Sponsor	Chief People Officer		
Document Lead	Associate Director People Programmes		
Policy Status	This policy utilises the National Framework and has been tailored to be specific to University Hospitals Birmingham		
Date Published	11/12/2024		
This Policy is essential reading for:	All staff		
Information For	All staff		
What has changed since the last version of this controlled document?	Amendments to appendix references.		

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 or a member of the People Directorate.

POLICY ON A PAGE
SEXUAL MISCONDUCT POLICY

Summary	This policy provides information about: • How to recognise and report sexual misconduct; • Our approach to taking actions when sexual misconduct is reported; • The support available to people involved or harmed.
Who needs to know?	All staff
Advice and guidance	The policy includes details on the internal and external support available to those reporting concerns and those handling concerns, as well as useful templates and checklists within the appendices to guide safe responses. For any advice and guidance please contact the People Advisory Service who can be contacted through firstcontact@uhb.nhs.uk
Training	All staff are required to access the training that can be found on easylearning under the Inclusion section by searching 'sexual harassment'.

The above summary highlights the main points for all users. For specific details please refer to the main document which follows.

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Version History

Version Number	Title
1.0	Sexual Misconduct Policy
1.1	Sexual Misconduct Policy

Supporting Procedures which enact this policy

Version Number	Title	Review Date
2.2	Dignity at Work procedure (Prevention of Bullying and Harassment)	01/2026

1. Policy Statement - why we have this policy

- 1.1. University Hospitals Birmingham NHS Foundation Trust, known as 'The Trust', is a signatory to the [sexual safety in healthcare organisational charter and supporting principles](#). We are committed to taking a zero-tolerance approach to sexual misconduct in the workplace to create a culture at work where everybody feels safe.
- 1.2. 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 our employees and people employed by other organisations, such as suppliers or visitors, from sexual misconduct.
- 1.3. 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, data* shows that more women experience sexual misconduct than men and that black, ethnic minority, disabled and LGBTQ+ people experience sexual harassment and abuse at a disproportionate rate. Some people will also find it more difficult to report sexual misconduct.

*[2020 Sexual Harassment Survey \(publishing.service.gov.uk\)](#)
- 1.4. This policy adopts national policy framework that has been developed with input from the national Workforce Issues Group of the NHS Social Partnership Forum.
- 1.5. This People policy provides support, advice and guidance on how you can expect to be treated, and what is expected from you.

2. Policy Objectives

- 2.1. 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 and procedures that might be used such as Dignity at Work (including bullying and harassment) procedure, Social Media procedure, Grievance and Disputes Procedure, Disciplinary procedure, and Freedom to Speak Up: Raising Concerns policy;
 - The support available to people involved or harmed. More information is in section 17 and in appendix 4.

3. What this policy covers

3.1. 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 3 provides more examples.

3.2. 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).

3.3. 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.

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

3.5. 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 Trust.

4. What sexual misconduct means

4.1. Sexual misconduct is uninvited, unwelcome or non-consensual behaviour of a sexual nature. It is behaviour that can reasonably be interpreted and/or perceived by an individual as sexual and which offends, embarrasses, harms, humiliates, or intimidates an individual or a group. Sexual misconduct can involve elements of harassment, violence and abuse and can be physical, verbal, or visual and via different mediums, such as through an email or a phone message.

- 4.2. Some forms of sexual misconduct may also constitute criminal offences under a range of legislation including but not limited to the Sexual Offences Act 2003 and the Protection from Harassment Act 1997. Potential criminal offences include sexual assault, rape, stalking or disclosing private sexual images to cause distress (revenge pornography). This list is not exhaustive.
- 4.3. For the purposes of this policy, commonly accepted definitions and examples of sexual misconduct are listed below (this list is not exhaustive):
- **sexual violence/sexual assault** encompasses acts ranging from verbal harassment to forced penetration and an array of types of coercion from social pressure and intimidation to physical force or other sexual offences, such as groping and/or forced kissing, which may be criminal offences.
 - **sexual harassment** is defined in the Equality Act 2010, section 26(2) and (3). It includes conduct by person A of a sexual nature that has the effect of violating person B's dignity or creating an intimidating, hostile, degrading or offensive environment for B, even if A did not intend this. Whether conduct constitutes sexual harassment will depend on both B's perception and whether it is reasonable for B to have perceived A's conduct in that way. It may also be sexual harassment by A, if A treats B less favourably because B did not submit to A's sexual advances. Some examples of sexual harassment include (this list is not exhaustive):
 - gesturing or making sexual remarks about someone's body, clothing or appearance;
 - asking questions about someone's sex life;
 - telling sexually offensive jokes;
 - stalking;
 - voyeurism;
 - making sexual comments or jokes about someone's sexual orientation or gender reassignment;
 - displaying or sharing pornographic or sexual images, or other sexual content;
 - touching someone against their will.
- 4.4. Sexual harassment can happen to anyone regardless of their sex or the sex of the harasser and can be carried out by individuals of any gender identity or sexual orientation. A single incident is enough to constitute sexual harassment. Someone may be sexually harassed even if the conduct was not directed at them but because of the environment it creates for them. It also includes treating someone less favourably because they have submitted to or rejected sexual harassment in the past.
- 4.5. What some people might consider as joking, 'banter' or part of their

workplace culture is still sexual misconduct if:

- the behaviour is of a sexual nature;
- it is uninvited and/or it is unwanted;
- it violates someone's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them.

- 4.6. If you are unsure what constitutes sexual misconduct, but you feel you have experienced or witnessed something you think may be in the scope of this policy, you are encouraged to report it as potential sexual misconduct.

5. How this policy promotes a kind and caring culture, and treats people fairly

- 5.1. We want the Trust to be a place where everyone feels safe to work, and where actions are taken to stop sexual misconduct.
- 5.2. This policy commits the Trust and everyone working within it to take all reports of sexual misconduct seriously and to act on all reports. A zero-tolerance approach to sexual misconduct in the workplace is crucial to promoting a kind and caring culture.
- 5.3. Whenever we write a policy, we do an equality impact assessment to ensure it treats everyone fairly, and it does not disadvantage or discriminate against anyone or any protected group.
- 5.4. 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.
- 5.5. Appendix 7 outlines how this policy will be monitored to ensure it treats everyone fairly.

6. Scope

- 6.1. The Trust has a duty of care to protect employees from, and prevent incidents of, sexual misconduct from individuals within the physical or digital workplace. Our Trust expects all employees, contractors, secondees, agency staff, volunteers, students, interns, and casual and/or bank/temporary workers to comply with this policy.
- 6.2. Employees who are seconded or deployed to another organisation will be supported by the Trust to report sexual misconduct in accordance with this policy or a similar policy provided by the host organisation.
- 6.3. The Trust also has a duty of care to protect individuals employed by other organisations and third parties, such as suppliers or visitors, from sexual

misconduct (as defined in section 9) from any individual in the workplace.

- 6.4. The Trust expects any third-party organisation that deploys employees or representatives to work in or with the Trust to engage with any investigation relating to sexual misconduct and take appropriate action and/or provide appropriate support as a result of findings in relation to the employee or representative.
- 6.5. Sexual misconduct can take place at any time and any place. It can happen at any location, including the work place, or work place events - for example, at learning events, while travelling with colleagues to an event, or in other spaces that may be both physical and virtual including at functions and social events. Incidents might take place on the Trust premises or elsewhere, such as virtual or physical environments that may not always be a designated workplace. Incidents which occur within these environments fall within the scope of this policy.
- 6.6. If employees are subject to sexual misconduct from individuals not employed by the Trust, this will be taken no less seriously. In these circumstances the Trust will:
 - not tolerate any conduct – on its premises or within any environment – that may be defined as sexual misconduct;
 - report any allegation to the employer or representative organisation without delay, and appropriate steps will be taken to ensure the safety of those involved. This will be reported in the same way as if the alleged perpetrator was a Trust employee (see section 14);
 - following the receipt of allegations of sexual misconduct, take action, which may involve taking management action and/or commencing an investigation. Individuals may be asked to leave Trust premises immediately and their return may not be appropriate until the outcome of any investigation is known. This process will be coordinated by the Trust's People Directorate, and will be by the People lead for employee relations relevant to the employee base;
 - if the Trust becomes aware that an employee is, or may be, perpetrating sexual misconduct, appropriate action will be taken. This may include an investigation under the organisation's Disciplinary Procedure or Maintaining High Professional Standards Procedure if the allegations are against a doctor or dentist. This includes scenarios where the victim is not an employee.

7. Language used in this policy – Definitions

- 7.1. Definitions of people and roles that may be involved in a sexual misconduct

report include:

- **complainant** – a person who has raised a concern of sexual misconduct. This could be an individual who has alleged they have experienced sexual misconduct, or a line manager/colleague who is reporting on their behalf. See section 14 on how to report a concern.
- **alleged perpetrator** – an individual about whom a sexual misconduct report has been raised.
- **witness** – a person who has witnessed an alleged instance of sexual misconduct and/or can give relevant evidence that may form part of an investigation, where indicated.
- **investigator** – where an investigation is appropriate a suitably trained investigator will be appointed
- **subject matter expert** – in some cases it may be appropriate to take specialist or expert advice. This may be provided by an appropriate subject matter expert (see Appendix 5).

7.2 A disclosure. If you experience or witness sexual misconduct you may choose to tell someone at work about your experience. This might be your manager, supervisor, a colleague or anyone else you trust including a member of the People Directorate, a Freedom to Speak Up Guardian, a Speaking Up Champion, a Wellbeing Officer, a member of the Safeguarding team, or a trade union representative. It is important that the person who receives a disclosure uses the guidance in this policy in section 14 and in appendix 12. If you make a disclosure to someone this does not mean that you have made or must make a report.

7.3 Report. A report is different to a disclosure. A report involves telling someone who is in a position of responsibility or authority in the Trust about sexual misconduct that has happened to you or that you have witnessed. A report means you are requesting that the Trust makes decisions and takes actions to stop it from happening again. Section 14 provides information about how to report sexual misconduct.

7.4 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. Section 20 provides more information about a review group.

8. Advice and Support

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

8.2. 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.

- 8.3. If you can, write down what happened as soon as you can. Include dates and the order that events took place, and how they made you feel. This will help you to remember the details.
- 8.4. It's important you speak to someone you trust, to get support and to decide what to do. This is often called a 'disclosure'.
- 8.5. 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.
- 8.6. You can also get advice and support from an external organisation (listed in Appendix 4).
 - 8.7. If you decide and are ready to make a report, section 14 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.

9. People who are not employed by the Trust

- 9.1. If your report is about the behaviour of someone at work, but they are not employed by the Trust, you should make a report using this policy.
- 9.2. A 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. A person who has experienced or witnessed sexual misconduct may choose to tell anyone in the workplace about their experience – a line manager, colleague, or person in a position of trust. This is referred to as a 'disclosure'. It is important that the initial response to a disclosure is conducted appropriately and sensitively. All employees need to be aware of these requirements. Please see the information below on how to handle a disclosure sensitively. Colleagues may choose to formally report an instance of sexual misconduct without having previously disclosed it and the same steps should be followed in these cases.

10. Patients and service users

- 10.1. 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.
- 10.2. This will allow them to take actions as soon as possible using the Security policy (Including the Prevention and Control of Violence and Aggression), and Safeguarding policies; for example, this could include warning a patient or service user about their behaviour or reporting a criminal act to the police.

11. Incidents unrelated to work

- 11.1. 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. Appendix 4 provides information about support, including specialist organisations you can contact to get help.

12. Witnessing behaviour

- 12.1. We all see things happening around us every day that we do not agree with. These things might not be happening to us, but we can choose to do something about them. This is often called being an 'active bystander'.
- 12.2. 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.
- 12.3. 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.
- 12.4. 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.

- 12.5. Appendix 4 provides information about the support available to those involved.
- 12.6. Talk to them about what happened. Ensure they understand the reasons for reporting and ask if they agree with reporting their experience.
- 12.7. 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 People Directorate to get advice.

13. Supporting a colleague

- 13.1. 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 11 provides advice about what to do when a colleague discloses their experience of sexual misconduct to you.
- 13.2. 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.
- 13.3. If you believe that someone is in danger you should contact the police and report the incident to a member of the People Directorate.

14. How to make a report

- 14.1. It is important that sexual misconduct is reported so actions can be taken to keep people safe and to prevent it from happening again.
- 14.2. There isn't a time limit but making a report as soon as possible will allow actions to be taken more quickly.
- 14.3. If you are reporting something you have witnessed, you should read section 12 and talk to the person the behaviour was aimed at before you make the report.
- 14.4. 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.
- 14.5. Reports may be made to:
 - your manager or another manager, or a supervisor or educational supervisor. They will ask a member of the People Advisory team for guidance

- a member of the People Directorate
 - a freedom to speak up guardian (FTSUG)
 - the online form - <https://forms.office.com/e/wPqb9x1eEy>
- 14.6. A trade union representative, Wellbeing Champion, or an Independent Domestic Violence Advocate can support you to make a report.
- 14.7. Every report will be taken seriously.

15. Anonymous reports

- 15.1. If you give your name when you report sexual misconduct, the Trust will be able to complete a more in-depth investigation.
- 15.2. Providing your details can help the Trust to support you and signpost or refer you to further support.
- 15.3. All reports are taken seriously. If you do not feel you can provide your name, you can report anonymously.
- 15.4. 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.
- 15.5. The steps in this policy will be followed as closely as possible using the information you provide.
- 15.6. If remaining anonymous is the right option for you, you can raise a report anonymously through the Freedom to Speak Up Service. You may also use an anonymised email address and submit your report to any manager or to the People Advisory Service via firstcontact@uhb.nhs.uk.

16. Listening to you

- 16.1. 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.
- 16.2. 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.
- 16.3. The person you speak to will:
- ask you for information about what happened using the questions in appendix 11

- use the advice in appendix 12 about how to respond to a disclosure or report
- 16.4. 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 4 provides information about support
 - agree next steps and who you should contact if you have any questions.
- 16.5. 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.
- 16.6. If you decide to stop your report, your wishes will be respected where possible. Section 28 provides information about when the organisation might be required to continue to take action.
- 16.7. If you change your mind, or the behaviour continues, you can use this policy later. There is no time limit.

17. Support

- 17.1. The person you give your report to will talk to you about the options for accessing help and support, including from the organisations listed in appendix 4.
- 17.2. If you are a member of a trade union, they can also provide advice and support.
- 17.3. Support for you to continue to work will be arranged where possible, based on advice from the Trust's Occupational Health service. This may involve using procedures such as Special Leave. 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.
- 17.4. All support will be reviewed with you regularly to ensure it remains helpful and to identify any additional needs you may have.

18. If you can't attend work

- 18.1. 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 Trust's sickness absence policy. If it is reasonable, managers may agree to remove absence related to sexual misconduct from processes to manage levels of sickness absence.
- 18.2. 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.
- 18.3. A member of the People Advisory Service or your trade union representative can provide advice and information about injury allowance.

19. After you make a report

- 19.1. Our Trust has a duty to ensure all employees involved with sexual misconduct cases are supported. This includes employees who have concerns raised about them.
- 19.2. 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.

20. Review Group

- 20.1. The review group will include:
 - the person you made your report to;
 - a senior member of the People team, who is specifically skilled to handle sexual misconduct cases;
 - a staffside colleague not known to be representing any party;
 - the Chair of the Women's Network.
- 20.2. It might also include:
 - a senior manager;
 - a safeguarding lead;
 - an expert, who could include a colleague from safeguarding, the local authority designated officer, or any other person who can provide advice that is needed.

- 20.3. Appendix 5 provides more information about expert advice.
- 20.4. 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 as abuse of power over a more junior colleague.
- 20.5. 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 8. 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
 - 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
- 20.6. Read more about providing information and updates in section 24.
- 20.7. 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 (anonymously if needed).

21. Outcomes

- 21.1. 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 Procedure to manage your report
 - using the Dignity at Work Procedure to manage your report
 - using the Maintaining High Professional Standards (MHPS) procedure 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.

22. Investigations

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

22.2. You can ask for adjustments if you need them, and they will be agreed if possible. Examples of possible 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

23. Preventing victimisation

23.1. Victimisation is negative treatment because of being involved with a discrimination or harassment complaint. It is unlawful under the Equality Act.

23.2. 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.

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

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

24. Providing information and updates

24.1. 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

People team.

24.2. Due to confidentiality, not everything that happens can be shared with you, but you will receive regular updates.

24.3. 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.

25. Confidentiality

25.1. 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.

25.2. 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.

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

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

25.5. Confidentiality or non-disclosure agreements will not be used to stop reporting of sexual harassment or whistleblowing.

26. Telling your manager

26.1. You will be asked how you feel about telling your manager.

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

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

27.1. 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.

27.2. This will always be done in a careful and planned way and will not happen without your knowledge.

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

28. Involving the police and other organisations

- 28.1. Sexual misconduct can be a criminal act. Normally, it will be your choice whether to report what happened to the police.
- 28.2. 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.
- 28.3. They may need to share information with the police, the local authority designated officer (LADO) and / or the relevant local authority safeguarding team.
- 28.4. This might happen even if you do not wish to use this policy.
- 28.5. Where possible, you will be told before actions are taken and support will be provided to you throughout the process.

29. Police investigations

- 29.1. If a report has been made to the police, their investigation cannot be impacted by our Trust'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.

30. Statutory regulators

- 30.1. 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.
- 30.2. The 'responsible officer' for nursing, healthcare and medical professionals will be responsible for reporting to professional bodies, shared with the People team. 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.

31. Preventing sexual misconduct

- 31.1. The Trust 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.

31.2. The Trust 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.

32. Training

32.1. 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

32.2. Managers and members of the People Directorate, freedom to speak up guardians (FTSU), wellbeing officers and colleagues from staff networks will receive training on this policy so they can offer support, advice and guidance to colleagues.

32.3. 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.

32.4. All staff are required to access the training that can be found on the Inclusion

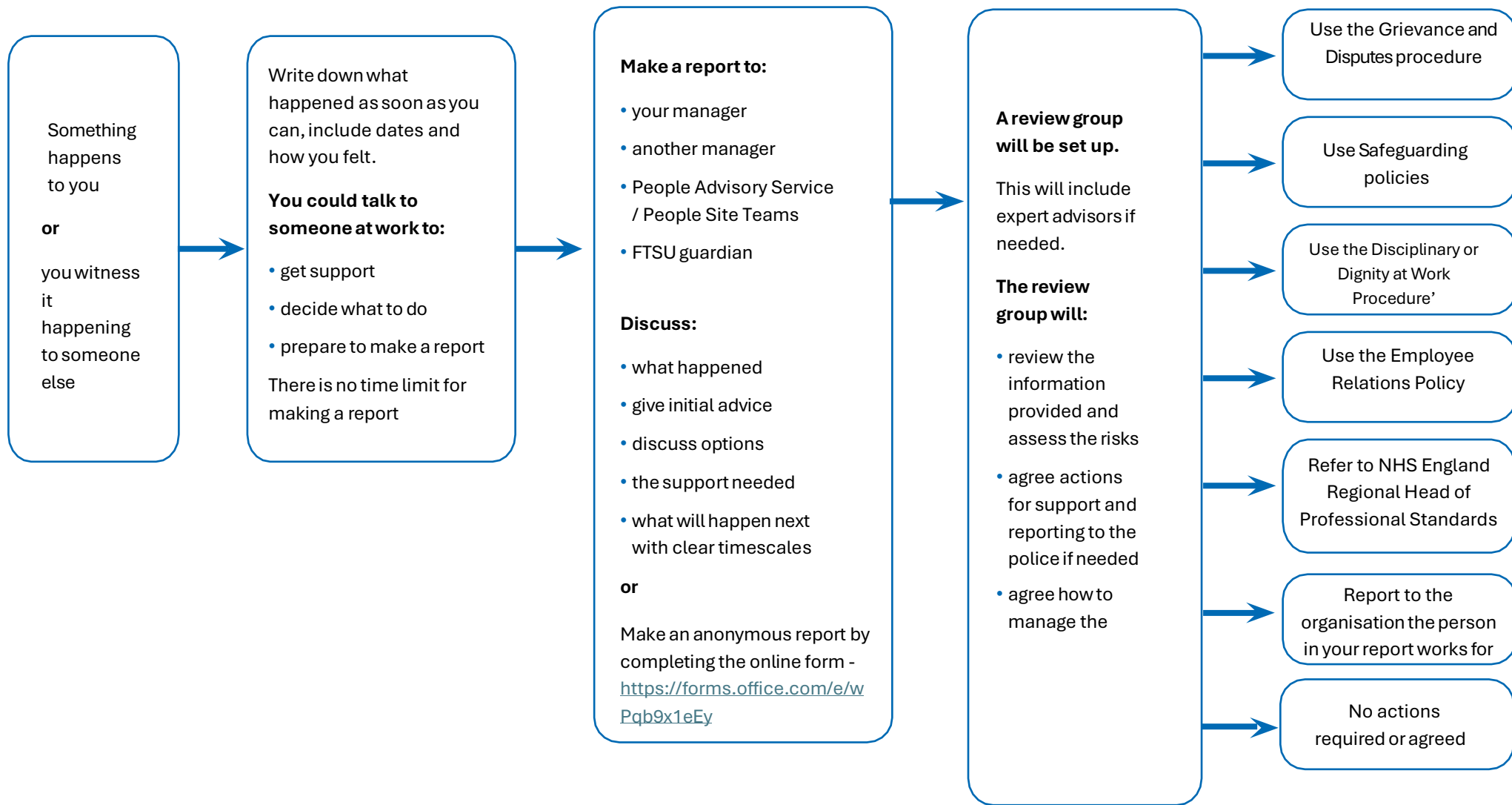
section by searching [easylearning](#) under 'sexual harassment'.

33. Associated Documents

- Freedom to Speak Up: Raising Concerns Policy
- Security Policy (Including the Prevention and Control of Violence and Aggression)
- Safeguarding Adults at Risk of Abuse Policy
- Grievance and Disputes Procedure
- Dignity at Work Procedure
- Procedure for Maintaining High Professional Standards (MHPS) in the Modern NHS
- Disciplinary Procedure

Appendix 1 Flowchart

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



Appendix 2 Responsibilities

The Trust's Board 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
- appoint an executive group member with responsibility for improving the sexual safety of employees
- appoint a lead for domestic abuse and sexual violence.

Senior leaders will:

- create an environment that encourages and supports colleagues to discuss and report sexual harm, without fear of retaliation or victimisation
- 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.

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 3 at work or linked to work.

The People Directorate 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, the 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.

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 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.

Safeguarding leads will:

- provide specialist advice and support about safeguarding
- advise on safeguarding training and support
- provide guidance and make referrals in confidence to a 'person in position of trust' (PIPOT) or local authority designated officer (LADO).

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.

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.

Appendix 3: 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

Appendix 4 Support provided by the Trust

The below can provide advice and guidance about this policy, and information about other services that can provide support.

People Advisory Service

Tel: 0121 371 7612

Email: firstcontact@uhb.nhs.uk

Occupational Health

Tel: 0121 371 7604

Email: OHEnquiries@uhb.nhs.uk

Inclusion

Tel: 0121 371 7170

Email: inclusion@uhb.nhs.uk

Safeguarding teams

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

Adults

Email: AdultSafeguarding.Teamemail@uhb.nhs.uk

Children

Email: Safeguarding.ChildrenTeamemail@uhb.nhs.uk

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.

Tel: 0121 371 6686 or 0121 371 6685

Freedom to speak up guardians

Can offer a confidential and safe place to speak about sexual safety and provide guidance and information about how to resolve concerns. Find out more.

Tel: 0121 371 7221

Email: freedomtospeakupguardian@uhb.nhs.uk

Independent Domestic Violence Advocates

They can signpost to this policy, explain the procedures for reporting and the potential routes and outcomes, and help someone to make a report.

Please make contact via the above safeguarding team.

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

Protect: free, confidential whistleblowing advice.

Equality Advisory & 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 & 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.

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:

Knowledge

- trauma informed interviewing and investigation techniques
- research led case reporting
- risk management
- understanding of issues impacting particularly vulnerable groups
- safeguarding

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 re-traumatising
- ability to overcome barriers to disclosure while supporting employee wellbeing
- 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

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)

Appendix 7: Monitoring Matrix

What is being monitored?	How is it measured?	Which meeting or Group is it reported to?	How often is it reported?	Where are concerns escalated to?
How many individuals use this policy and how do they use it?	How many informal or formal processes are started each year? How many are completed?	People and Culture Committee	Every 4 months (bi-meeting reporting)	Chief People Officer
Does the extent of policy use vary across different staff or protected groups? Are there any differences in outcomes?	Using demographic, band and staff group data to analyse use of the policy.	People and Culture Committee	Every 4 months (bi-meeting reporting)	Chief People Officer
Feedback on advice, process, ease of use and internal and external support.	Feedback to the HR team from individuals, trade unions, freedom to speak up guardians and staff networks.	People and Culture Committee	Every 4 months (bi-meeting reporting)	Chief People Officer
What are the outcomes of using this policy? How much change or learning happens? What does this tell us about the culture?	How many concerns move to disciplinary? How many appeals are made each year, how are these resolved? What outcomes have come from anonymous reports?	People and Culture Committee	Every 4 months (bi-meeting reporting)	Chief People Officer

Appendix 8: Training/Knowledge Needs Analysis

Staff Group	Training Level		
	Awareness	Process	Expert
Board	✓		
Leaders, Managers and Supervisors		✓	
People Directorate			✓
Safeguarding Leads			✓
Freedom to Speak Up Guardians and Champions		✓	
Trade Union Representatives		✓	

Training Level	What is provided	How will it be measured?
Awareness	All-staff communications Briefing sessions Easylearning training	Communications audit Training access audit
Process	Briefing sessions	Attendance register Implementation audit
Expert	Formal training	Attendance register Implementation audit

Appendix 9: 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:	

Appendix 10: Review group checklist

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? 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 9.	
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 Are there any 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. 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) 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)?	

Appendix 11: 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.

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)

Personal details:

1. Name of the person making the report
2. Contact details and the best time to contact them

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

About the incident:

1. Was it a single or multiple incidents?
2. 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
3. When did the incident(s) happen? If unsure, get rough dates or a

range of dates

4. Do they want to name the person whose behaviour they are reporting?
5. Information about the behaviour(s) being reported (this doesn't need to be in lots of detail at this point)

Witnesses:

1. Did anyone witness this behaviour?
2. Do the witnesses know this report is being made?

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

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

Next steps:

1. Speak to a member of the People Advisory team
2. Set up a review group

Appendix 12: 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 judgemental 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
- play down or 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](#)

Appendix 13: Additional guidance for managers

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

The resolution or grievance policy name 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.

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, 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 who can provide advice and support.

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 Advisory team. A separate relationships at work policy should be referred to.

Receiving a report about sexual misconduct

You have an important role to ensure reports are made effectively and dealt with. Your openness, 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 with you 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 11 provides guidance about how to respond and provide initial support and appendix 10 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.

During the conversation, collect information about what happened and ensure they have time to discuss their views about what to do next, as it is important to respect their views.

Get advice from a member of the HR team or other professionals as soon as you can. They will support and help you to set up a review group.

Anonymous reports

Some people may prefer to report their concern anonymously. Anonymous reports will be recorded in one location and used to understand underlying concerns and trends. It is important that anonymous reports are taken seriously. They can provide helpful information about patterns or areas of concern.

A member of the HR team will provide advice about managing anonymous reports.