Anti Sexual Harassment Policy & Procedure

Document Control Table	
Document title	Anti- Sexual Harassment Policy
Statutory/Recommended	Statutory
Status	Approved
Policy Owner (name and job title)	Human resources
Version number	1
Date approved	23/7/26
Approved by	Trust Board
Review period	Every Three Years
Review date	Summer 2029

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Introduction

1.1 The Trust is committed to taking and enforcing a zero-tolerance approach to any unwanted, inappropriate and/or harmful sexual behaviours within the workplace, and to ensure that all staff are treated, and treat others, with dignity and respect. It is recognised that sexual harassment can occur both in and outside the workplace, work related events, social functions, or on social media.

1.2 The Trust recognises its duty to take all reasonable steps to prevent sexual harassment, including harassment by third parties such as parents, carers, visitors, contractors and members of the public.

1.3 This policy, and the actions of the Trust, aims to; protect all Trust employees from experiencing sexual harassment, detail how employees will be supported in respect of this policy and in matters of sexual harassment, ensure a clear understanding of sexual harassment within the organisation, provide guidelines detailing how to report incidents, and signpost to other policies and procedures which have relevance in the context of sexual harassment.

1.4 This policy should be read in conjunction with the Trust's Grievance policy and Disciplinary policy and procedures (where applicable), and the Trust Code of Conduct.

1.5 Sexual harassment in the workplace in any form is unlawful and not acceptable. The Trust's culture is based on mutual respect and collaboration. Sexual harassment is a serious violation of those principles and the code of conduct.

Scope

2.1 This policy applies to all employees of the Trust. The Trust will not tolerate sexual harassment from inside or outside of the Trust. Employees, members of the Trust community, external agencies and providers and everyone interacting with the Trust are covered by the policy.

2.2 This policy will be subject to review at appropriate intervals, including if and when the DfE publish their previously announced Guidance on Bullying and Harassment of School Staff.

Sexual Harassment Definition and Examples

3.1 Sexual harassment is unwanted behaviour of a sexual nature. It is categorised in the Equality Act 2010 as any unwanted physical, verbal or non-verbal conduct that has the purpose or effect of violating a person's dignity, or creating an intimidating, hostile,

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degrading, humiliating or offensive environment for them. A single incident can amount to sexual harassment, and it has many forms of variable seriousness. Sexual harassment can also include treating someone less favourably because they have submitted or refused to submit to unwanted conduct of a sexual nature, or that is related to gender reassignment or sex, in the past.

3.2 A person sexually harasses someone, for example, when they:

- Insinuate, propose or demand sexual favours of any kind.
- Invade another person's personal space and/or make unwanted physical contact (e.g. inappropriate touching.). Unwanted 'horseplay' is sexual harassment.
- Stalk, intimidate, coerce or threaten another person to get them to engage in sexual acts.
- Send or display sexually explicit objects or messages or that some people may find offensive. This may include posting such material on social media. A person may be sexually harassed even if they were not the intended target. For example, a person may be sexually harassed if they witnessed pornographic images displayed on a colleague's phone or if they overheard a conversation of an inappropriate sexual nature.
- Comment on someone's looks, dress, sexuality or gender in a derogatory or objectifying manner or a manner that makes them uncomfortable.
- Make obscene comments, jokes or gestures that humiliate or offend someone.
- Pursue or flirt with another person persistently without the other person's willing participation. Also, flirting with someone at an inappropriate time (e.g. in a team meeting) is considered sexual harassment, even when these advances would have been welcome in a different setting. This is because such actions can harm a person's professional reputation and expose them to further harassment.

3.3 Please note that this list is not exhaustive.

3.4 The most extreme form of sexual harassment is sexual assault. This is a serious crime and should be reported to the police.

Responsibilities

4.1 Employers are responsible for taking all reasonable steps to prevent sexual harassment of their staff.

The Trust.

4.2 Trust leaders are responsible for;

- Effectively assessing the risk of sexual harassment of their employees and taking reasonable and appropriate actions to prevent or mitigate risk of sexual harassment of its employees occurring. This includes considering the risk of sexual harassment within its workforce, and from third parties (i.e. those not within the Trust's employment).
- Embedding this policy within all Trust settings, which may include:

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a. Sharing this policy, with all employees with a clear message outlining the expectations that they read and familiarise themselves with the content, drawing to the attention of their manager any lack of understanding or queries
b. Highlight this policy with members of the Trust community, external agencies and providers and everyone interacting with the Trust and ensuring reasonable steps are taken to ensure their understanding of its content, for example, by asking such individuals to raise any queries or areas of misunderstanding
c. Putting in place regular and effective training for employees and any other relevant stakeholders (such as those frequently attending the Trust or its schools to undertake duties i.e. Trustees, Governors, those running wraparound care, those working in Trust settings as self employed), in relation to sexual harassment
d. Taking effective and swift action in relation to any allegations of sexual harassment and for reviewing the Trust's risk assessment in the context of any concerns raised or incidents, including as part of lessons learned
e. Keeping centralised, confidential records of all concerns raised, formal and informal, and monitoring compliance, identifying trends and evaluating the Trust's actions.

Employees

4.3 Employees are responsible for;

- Reading the sexual harassment policy (and all other related policies shared by the Trust) ensuring that they read the content and draw to their manager's attention any lack of understanding of the content
- Undertaking training as required by the Trust
- Ensuring that their conduct is appropriate at all times in line with the Trust Code of Conduct
- Reporting any incidents of sexual harassment observed or experienced to the Trust in line with this policy and associated policies

Inadvertent harassment

5.1 Sometimes, people who harass others do not realise that their behaviour is wrong. This does not make the individual any less responsible for their actions.

5.2 If suspected that someone does not realise their behaviour is sexual harassment under the definition of this policy, and this is observed or experienced by a Trust employee, depending on the seriousness of the behaviour, employees may feel able and that it is appropriate to let the individual know that their behaviour could amount to sexual harassment, and remind them of the Trust's sexual harassment policy. If this behaviour continues, or the situation remains unresolved, or it is felt inappropriate to address the individual directly then it is advisable that this is reported to an appropriate Trust leader.

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Reporting Sexual Harassment

6.1 Employees reporting a complaint of sexual harassment experienced through the course of duties, carried out by either a colleague pupil, parent or carer, or member of the Trust community or associated party should report incidents to an appropriate Trust leader as soon as possible

Addressing complaints and allegations

7.1 Upon receipt of a complaint, the Trust will determine the most appropriate course of action for addressing complaints of sexual harassment and will access HR advice as appropriate. In considering the most appropriate course of action, the Trust will consider any wishes expressed by the complainant, the severity of what is alleged, and the potential implications if such allegation/s are proven against the individual, their right of reply in the context of allegations having a potential impact in respect of their conduct, and the Trust's commitment to taking reasonable steps to prevent employees from harassment in the workplace.

7.2 The aim of the Grievance policy as a mechanism for resolving issues rather than establishing guilt or issuing punishment, means that it would rarely be appropriate for allegations of harassment, including sexual harassment to be addressed through this policy. The complainant has the right to be protected during any process to establish the facts in such allegations, and the subject of the allegations has the right of a fair process and to reply in the context of understanding what is alleged and the potential implications for them in respect of their conduct.

7.3 In many cases, the Trust may decide to investigate allegations of sexual harassment as allegations of misconduct in line with the Trust disciplinary policy.

7.4 The Trust will not tolerate sexual harassment of its employees by third parties. Where such behaviour occurs, the Trust will take appropriate action, which may include:

- issuing warnings
- restricting access to sites
- requiring meetings to be supervised or recorded
- refusing future engagement with individuals
- involving relevant authorities where appropriate

When Trust leaders receive a complaint:

7.5 The Trust acts to prevent sexual harassment by building a culture of respect and trust. When sexual harassment is alleged and an employee raises an issue relating to this, leaders must act appropriately and will:

- Regard sexual harassment complaints as legitimate unless proven otherwise. Those who have reported sexual harassment will be listened to and supported.

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- Undertake an initial fact-finding exercise, asking for as many initial details and information as possible from the complainant. Keep copies of the information and facts provided with dates, times and details of incidents and any possible evidence in a confidential file separate to the personal file.
- Consider the Trust's policies and procedures and inform the complainant of these and the Trust's options to act where appropriate. Seek the individual's wishes and preference but being clear that it may be a management decision as to the most appropriate course of action where there are allegations of misconduct.
- Trust leaders must consider any interim actions that may need to be taken, taking into account the perspective and views of the complainant, which may include a need to make temporary changes to working arrangements to protect the complainant.
- Direct the employee to support resources and information available relating to their health and wellbeing.
- Encourage any employees affected to seek support from their Trade Union.

7.6 Some complainants might want the matter to be resolved informally and discreetly, while others might expect more formal actions. Leaders, with support of HR, should consider the circumstances and decide on appropriate action, again taking into consideration the responsibility of the Trust to take reasonable actions to prevent sexual harassment in the workplace.

7.7 For minor issues that perhaps do not meet the definition of sexual harassment, but which highlight inappropriate behaviour that could potentially develop if unchecked, it may be deemed appropriate to take action via an informal approach, such as through stage one of the Grievance procedure. In this case, the complainant's (where applicable) desired action should form part of consideration of an appropriate resolution. It is suggested that in these cases, managers follow the guidance as outlined in the section of this document; 'Conclusion of sexual harassment allegation/s / investigation'.

7.8 Leaders have a duty to prevent sexual harassment and act when they have suspicions or receive reports. Ignoring or worse, encouraging this behaviour may be a matter of misconduct in itself.

Supporting those affected by sexual harassment

8.1 The Trust is committed to supporting employees through what is appreciated may be a difficult time. This support should be available via management in the first instance, but where this is not appropriate due to individuals' roles in any formal process, an alternative contact will be arranged for the employee within the Trust. Employees should be signposted to other avenues of support available such as Education Mutual, Trade Unions, charitable organisations and advice from Occupational Health where applicable.

8.2 All parties involved will be treated sensitively and objectively by the Trust in order for the facts to be established. The Trust will deal with any matters relating to sexual harassment as a priority.

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Victimisation

9.1 Victimisation is where someone is subject to inappropriate behaviour or conduct because they have made or supported someone in making a complaint of discrimination, bullying or harassment. Any complaints or allegations of victimisation will be treated seriously, and careful consideration will be given as to an appropriate way of addressing or investigating such complaints. This may include the need to investigate in line with the Trust disciplinary policy and procedure.

Conclusion of a sexual harassment allegation/s investigation

10.1 Careful consideration must be given to the appropriate steps to take upon conclusion of any allegations of sexual harassment, whether it be a case considered as a grievance, or more likely, through the disciplinary process. The next steps outlined give a framework for management considerations, but it is important to note that each case will be different and what is appropriate will depend on a range of factors, including the individual who has experienced sexual harassment's views, the detail of any proven sexual harassment, future risks to Trust employees and any mitigating factors.

10.2 Where allegations have been investigated as misconduct, the Trust must consider carefully how to address any next steps whether allegations are proven or not. Each case will be unique and consideration must be given accordingly. It is important to recognise that, in a grievance matter, the individual who raises a complaint has the right to a response as part of this process. They should be afforded the same right of a response or outcome to any complaint raised which is considered as an allegation of misconduct, notwithstanding the need to balance this against the need to consider the protection of the accused employee's data and personal information.

10.3 In the event that the accused employee remains in employment, careful consideration also needs to be given to how the individuals will be able to move on from the matter raised, which may include the need to consider carefully at the outcome stage what an appropriate outcome might be. Redeployment may need consideration, as part of an outcome, and further guidance in this respect is available in the disciplinary policy and associated guidance.

10.4 Finally, in some cases, where at the end of a case it is determined that the individuals in question will work together in the future, careful consideration should be given in these cases about an appropriate mechanism to support them being able to move forwards in their ongoing working relationship. It may, in some cases, be appropriate to explore a carefully facilitated meeting focussing on the future, or independently facilitated mediation.

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Record Keeping

11.1 Trust leaders should ensure that they regularly review the sexual harassment risk assessment, updating this and taking further actions as necessary to ensure reasonable steps are taken to prevent sexual harassment in the workplace. This includes reviewing the risk assessment upon conclusion of any cases of, or specific concerns regarding, sexual harassment. Trust leaders should retain appropriate records of any such incidents in order to be able to consider any trends and further action appropriately.

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