Document name	
Sexual Violence and Sexual Harassment (SVSH)	

This document is relevant to:	
Central support services	✓
Education	✓
Wellbeing and therapy	✓
Residential	✓

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	Keeping children safe in education September 2020
	Working together to safeguard children 2018

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Contents of document
1. Introduction
2. Categories of SVSH
3. Schools and colleges legal responsibilities
4. Children with SEND
5. Responding to a disclosure
6. Key responsibilities of employees and managers
7. Further reading

1. Introduction

In December 2017 the Department for Education released advice: Sexual Violence and Sexual Harassment between children in schools and colleges – advice for governing bodies, proprietors, head teachers, principals, senior leadership teams and designated safeguarding leads.

The advice is to be read and referenced alongside Keeping Children Safe in Education September 2018, the focus is sexual violence and sexual harassment between children at school and college. The guidance seeks to define the issues, minimise risk and what to do if an incident occurs or is alleged to have occurred.

Sexual violence and Sexual harassment should never be tolerated and always reported as a safeguarding concern. It is not 'just banter', and should always be challenged.

What do we mean by sexual violence and sexual harassment between children?

Sexual violence and sexual harassment can occur between two children of any age and sex. It can also occur through a group of children sexually assaulting or sexually harassing a single child or group of children face to face or online through messaging apps, social media sites or online gaming platforms.

Children who are victims of sexual violence and sexual harassment will likely find the experience stressful and distressing. This will, in all likelihood, adversely affect their educational attainment. Sexual violence and sexual harassment exist on a continuum and may overlap, they can occur online and offline (both physically and verbally) and are never acceptable. It is important that all victims are taken seriously and offered appropriate support.

- Alleged reports of sexual violence and sexual harassment are extremely complex to manage. It is essential that complainants are protected, offered appropriate support and every effort is made to ensure their education is not disrupted. It is also important that other children, adult students and school and college staff are supported and protected as appropriate.

2. Categories of sexual violence and sexual harassment (SVSH)

Harmful Sexual behaviour (HSB) is defined as 'one or more children engaging in sexual discussions or acts that are inappropriate for their age or stage of development. These can range from using sexually explicit words or phrases to full penetrative sex with other children or adults.'

Children's sexual behaviour exists on a wide continuum, 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". The term has been widely adopted in child protection. Harmful sexual behaviour can occur online and/or offline and can also occur simultaneously between

the two. Harmful sexual behaviour should be considered in a child protection context.

When considering harmful sexual behaviour, ages and the stages of development of the children are critical factors to consider. 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.

Sexual violence:

It is important that schools and colleges are aware of sexual violence and the fact children 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.

When referring to sexual violence we are referring to sexual offences under the Sexual Offences Act 2003.

Rape:

A person (A) commits an offence of rape if: they intentionally penetrate 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.

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.

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

Sexual harassment:

'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 sexualised environment.

Whilst not intending 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 sexualised names.
- Sexual jokes or taunting
- Physical behaviour, such as deliberately brushing against someone, interfering with someone's clothes, displaying pictures, photos, or drawings of a sexual nature

Online Sexual harassment 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 on-line bullying
- Unwanted sexual comments and messages
- Sexual exploitation, coercion and threats

St. John's considers sexual harassment in broad terms. Sexual harassment (as set out above) creates an atmosphere that, if not challenged, can normalise inappropriate behaviours and provide an environment that may lead to sexual violence.

3. Legal responsibilities

St. John's has a duty to make it clear that sexual violence and sexual harassment is not acceptable, will never be tolerated and is **not** an inevitable part of growing up.

Schools and colleges should be aware that their staff could be victims of sexual violence and sexual harassment. St. John's has arrangements in place to protect staff from such abuse, including clear reporting and support mechanisms, such as My Concern, supervisions, Databridge, de-brief/PIR/PIS meetings, multi-disciplinary team meetings (MDTs).

St. John's has a statutory duty to safeguard and promote the welfare of its learners. As part of this duty we are required to have regard to guidance issued by secretary of state as set out in Keeping Children Safe in Education and Working Together to Safeguard Children, The Equality Act 2010.

Our obligations under the Human Rights Act 1998 are:

- It is unlawful for schools and colleges to act in a way that is incompatible with the European Convention on Human Rights.

These rights include:

- Article 3: the right to freedom from inhuman and degrading treatment (an absolute right)

- Article 8: the right to respect for private and family life (a qualified right) includes a duty to protect individuals' physical and psychological integrity

The most effective preventative education programme is through a whole school and College approach that prepares our learners for life. St. John's will have a clear set of values and standards, these will be upheld and demonstrated throughout all aspects of the school life. This will be underpinned by the behaviour policy. Such a programme should be developed to be age and stage of development appropriate, especially when considering that our learners have added needs and complex behaviours that challenge.

It will tackle issues such as:

- Healthy and respectful relationships
- What respectful behaviour looks like
- How to keep themselves safe
- Consent
- Gender roles, stereotyping, equality
- Body confidence and self esteem
- Prejudiced behaviour
- That sexual violence and sexual harassment is always wrong, and
- Addressing cultures of sexual harassment

Good practice will allow our learners to have open forums in which to discuss and talk things through. Such discussions may lead to increased safeguarding reports. Learners should be made aware of the processes to raise their concerns or make a report and how any report will; then be handled.

4. Children with special educational needs and disabilities (SEND)

Children with special educational needs and disabilities 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 the indicator of possible abuse, such as behaviour, mood and injury relate to the child's disability without further exploration

- The potential for children with SEND being disproportionately impacted by behaviours such as bullying and harassment, without outwardly showing any signs

- Communication barriers and difficulties overcoming these barriers.

5. Responding to a disclosure

Reports of sexual violence and sexual harassment are likely to be complex and require difficult decisions to be made, often quickly and under pressure.

As per Part one of **Keeping Children Safe in Education,** all staff are trained in how to receive, manage and report. However, effective safeguarding practice includes:

- Not promising confidentiality at this initial stage as it is very likely a concern will have to be shared further (for example, with the designated safeguarding lead or children's social care) to discuss next steps. Staff should only share the report with those people who are necessary in order to progress it. It is important that the victim understands what the next steps will be and who the report will be passed to;

- Recognising a child is likely to disclose information to someone they trust: this could be anyone on the school or college staff. It is important that the person to whom the child discloses recognises that the child has placed them in a position of trust. They should be supportive and respectful of the child

- Listening carefully to the child, being non-judgmental, being clear about boundaries and how the report will be progressed, not asking leading

questions and only prompting the child where necessary with open questions – where, when, what, etc.

• Considering the best way to make a record of the report. Best practice is to wait until the end of the report and immediately write up a thorough summary. This allows the staff member to devote their full attention to the child and to listen to what they are saying. It may be appropriate to make notes, especially if a second member of staff is present. However, if making notes, staff should be conscious of the need to remain engaged with the child and not appear distracted by the note taking. Either way, it is essential a written record is made;

• Only recording the facts as the child presents them. The notes should not reflect the personal opinion of the note taker. Schools and colleges should be aware that notes of such reports could become part of a statutory assessment by children's social care and/or part of a criminal investigation;

• Where the report includes an online element, being aware of Searching Screening and Confiscation advice (Department for Education publication available on gov.uk website). The key consideration is for staff not to view or forward illegal images of a child. The highlighted advice provides more details on what to do when viewing an image is unavoidable

• Managing reports with two members of staff present, (preferably one of them being the designated safeguarding lead or a deputy). However, this might not always be possible, staff must:

❖ Inform a member of the safeguarding team as soon as practically possible:

  ➕ **The safeguarding team will make a decision whether to contact children's services and the police.**

  ➕ **It is the responsibility of all staff to report to the safeguarding team representatives immediately.**

  ➕ **Leaving the School/College or Residential Houses without sharing the information is not an option.**

6. Key responsibilities of employees and managers

All staff to have an 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 is paramount.

All staff will recognise and report any vulnerabilities our learners may have on to MyConcern or directly to a member of the safeguarding team.

As a safeguarding team we will ensure that each case is looked at in an individual way due to the complexities of our learners.

The AIM (assessment intervention moving on) risk assessment

Using the AIM risk assessment tool we will look at the young person's behaviours, are they:

- Healthy sexual behaviours
- Problematic sexual behaviours
- Harmful sexual behaviours

This will be completed alongside the stages of development of that individual learner or learners.

7. Further reading

Support and specialist organisations

- **Barnardo's**   **https://www.barnardos.org.uk**
- **Lucy Faithfull Foundation**   **https://www.lucyfaithfull.org.uk**
- **NSPCC**   **https://www.nspcc.org.uk**
- **Rape Crisis**   **https://rapecrisis.org.uk**
- **UK Safer Internet Centre**   **https://www.saferinternet.org.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**
- **Victim Support**   **https://www.victimsupport.org.uk**
- **Gillick Competency**   **https://www.nspcc.org.uk/preventing-abuse/childprotection-system/legal-definition-child-rightslaw/gillick-competency-fraser-guidelines**
- **Parent Zone**   **https://parentzone.org.uk**
- **Thinkuknow**   **https://www.thinkuknow.co.uk/parents**
- **Searching Screening & Confiscation**
  https://www.gov.uk/government/publications/searching-screening-and-confiscation