



# THOMAS ESTLEY COMMUNITY COLLEGE

## Sexual Violence and Sexual Harrassment Policy

Approved/reviewed by	
TECC LGC 19/09/2023	
Date of next review	Sept 2024

This plan is reviewed annually to ensure compliance with current regulations.

Version	Date	Updated by	Summary of changes

## Rationale

Thomas Estley Community College is committed to providing a safe and respectful environment where the whole community is able to learn and thrive free from sexual violence and sexual harassment. **The school takes any incidents of sexual violence or sexual harassment very seriously and is committed to handling all reports sensitively, effectively and in a timely manner.**

**We are clear that sexual violence and sexual harassment are not acceptable, will never be tolerated and are not an inevitable part of growing up. We will always challenge behaviour or language that seeks to normalise sexual harassment or violence in school. Sanctions will be applied in accordance with our Behaviour Policy.**

This policy has been developed in line with the Department for Education's sexual violence and sexual harassment between children in schools and colleges (May 2018) guidance document.

The policy and procedures outlined below should be considered alongside the school Child Protection Policy and relevant published government guidance.

### **What is meant by sexual violence and sexual harassment children?**

- Sexual violence and sexual harassment can occur between two children of any sex. Additionally, sexual violence and sexual harassment can occur through a group of children sexually assaulting or sexually harassing a single child or group of children.
- Children who are victims of sexual violence and sexual harassment will likely find the experience distressing. This will, in all likelihood, adversely affect their educational attainment. Thomas Estley Community College will aim to support these students to access their education and get the correct specialist support, working in partnership with the Police and Children's Services.

### **What is the definition of sexual violence?**

For the purpose of this policy, when referring to sexual violence we are referring to sexual offences under the Sexual Offences Act 2003 as described below:

**Rape:** A person (A) commits an offence of rape if: he intentionally penetrates the vagina, anus or mouth of another person (B) with the 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?**

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. 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.

## What is sexual harassment?

When referring to sexual harassment we mean 'unwanted conduct of a sexual nature' that can occur online and offline. When we reference sexual harassment, we do so in the context of child on child sexual harassment. Sexual harassment is likely to: violate a child's dignity, and/or make them feel intimidated, degraded or humiliated and/or create a hostile, offensive or sexualised environment.

Whilst not intended to be an exhaustive list, sexual harassment can include:

- sexual comments, such as telling sexual stories making lewd comments, making sexual remarks about clothes and appearance, and calling someone sexualised names
- sexual "jokes" or taunting
- physical behaviour, such as deliberately brushing against someone or interfering with someone's clothes
- displaying pictures, photos or drawings of a sexual nature
- online sexual harassment, which might include non-consensual sharing of sexual images and videos and sharing sexual images and videos (both often referred to as youth produced sexual imagery /nudes /sexting), inappropriate sexual comments on social media, exploitation, coercion and threats
- online sexual harassment may be standalone or part of a wider pattern of sexual harassment and/or sexual violence

Sexual harassment creates an atmosphere that, if not challenged, can normalise inappropriate behaviours and provide an environment that may lead to sexual violence.

## Special Educational Needs and Disabilities (SEND)

Children with Special Educational Needs and Disabilities (SEND) are three times more likely to be abused than their peers. Additional barriers can sometimes exist when recognising abuse in SEND children.

These can include:

- assumptions that indicators of possible abuse such as behaviour, mood and injury relate to the child's disability without further exploration
- the potential for children with SEND being disproportionately impacted by behaviours such as bullying and harassment, without outwardly showing any signs
- communication barriers and difficulties overcoming these barriers

## Protected Characteristics

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

## Harmful Sexual Behaviour

Children's sexual behaviour exists on a wide continuum, from the perceived 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 and is used in this Policy. 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. The Brook Sexual Behaviours Traffic Light Tool will be used to support the

Designated Safeguarding Lead (DSL) to make an informed, objective decisions regarding harmful sexual behaviours.

## **Procedures**

### **How do we respond to reports of sexual violence and sexual harassment?**

Reports of sexual violence and sexual harassment are likely to be complex and, therefore, require difficult professional decisions to be made, often quickly and under pressure. Guidance from the DfE is clear that it does not attempt to provide (nor would it be possible to provide) detailed advice on what we should do in any or every particular case; it provides effective safeguarding practice and principles for us to consider in our decision-making process.

Ultimately, all decisions at Thomas Estley will be made on a case-by-case basis. All members of the Pastoral Support Team completed full NSPCC training on the Dealing with incident of Sexual Violence/Harrasment in March 2022. The Designated Safeguarding Lead (DSL) and deputies will take the leading role and will use their professional judgement, supported by other agencies, such as children's social care and the police as required.

### **Some situations are statutorily clear:**

- 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
- rape, assault by penetration and sexual assault are defined in law
- creating and sharing sexual photos and videos of under 18s is illegal (often referred to as sexting, nudes or youth produced sexual imagery); this includes children making and sharing sexual images and videos of themselves

Our basic safeguarding principle is: if a child has been harmed, is in immediate danger or is at risk of harm a referral should be made to Children's Social Care. We will usually inform parents that we are making a referral to Children's Social Care. However, this too is on a case-by-case basis. It may be that we have assessed the situation and believe that a referral is needed without parental knowledge in order to safeguard the student(s) involved.

We will work closely with the police as rape, assault by penetration and sexual assaults are crimes. Where there is a report of a rape, assault by penetration or sexual assault, the starting point is it should be passed to the police Who Will advise and log according to their own guidelines.

### **Responding to reports of sexual violence and sexual harassment online**

We are aware that incidents of sexual violence and sexual harassment that occur online (either in isolation or in connection to offline incidents) can be complex. There is potential for the incident(s) to take place across a number of social media platforms and services. There is also the potential for the impact of the incident to extend further than our local community (for example, for images or content to be shared around neighbouring schools) and for a victim (or alleged perpetrator) to become marginalised and excluded by both online and offline communities. Additionally, there is the potential for repeat victimisation in the future if abusive content continues to exist somewhere online.

We will act in accordance with our Anti-Bullying Policy if we are made aware that our students are using online platforms which may jeopardise the safety of other members of our school community.

### **The immediate response to a report — managing the disclosure**

We will always do our utmost to ensure that victims are reassured that they are being taken seriously and that they will be supported and kept safe. In some cases, the victim may not make a direct report or disclosure. For example, a friend may make a report or a member of our school may overhear a conversation that suggests a child has been harmed. This discussion will be handled sensitively and with the support of children's social care if required.

### **Confidentiality**

- Staff taking a disclosure will never promise confidentiality as it is very likely that it will be in the best interests of the victim to seek advice and guidance from others in order to provide support and engage appropriate agencies.
- We do not consider ourselves to be experts in this area and it is vital that appropriate support is publicised to students and their parents, or organised by us for them.
- The victim may ask us not to tell anyone about the sexual violence or sexual harassment. There are no easy or definitive answers when a victim makes this request. If the victim does not give consent to share information, staff may still lawfully share it, if it can be justified to be in the public / individual's interest; for example, to protect children from harm and to promote the welfare of children.

Ultimately, the DSL will have to balance the victim's wishes against their duty to protect the victim and other children within the school setting.

If we do decide to make a referral to children's social care and/or a report to the police against the victim's wishes, this will be handled extremely carefully, the reasons will in most cases be explained to the victim and appropriate specialist support offered.

### **Anonymity**

Where we are aware that an allegation of sexual violence or sexual harassment is progressing through the criminal justice system, we will be mindful of anonymity, witness support and the criminal process in general so that we can offer support and act appropriately. In addition, we will endeavour to do all we can to reasonably protect the anonymity of any children involved in any report of sexual violence or sexual harassment. We will carefully consider which staff in our school should know about the report and any support that will be in place for the children involved.

### **Risk Assessment**

When there has been a report of sexual violence, the DSL Will make an immediate risk and needs assessment. Where there has been a report of sexual harassment, the need for a risk assessment should be considered on a case-by-case basis.

#### **The risk and needs assessment should consider:**

the victim, the alleged perpetrator and the other children (and, if relevant, staff) at school.

The risk assessments will be logged and uploaded on My Concern and will be kept under regular review, reflecting any changes in circumstances. At all times, we will actively consider the risks posed to all our students and put adequate measures in place to protect them and keep them safe during school hours. The DSL will continue to liaise with Children's Social Care and specialist services as required. Where

there has been a report of sexual violence, it is likely that professional risk assessments by social workers and or sexual violence specialists will be required. Any such professional assessments will be used to inform our approach to supporting and protecting the student(s) and updating our own risk assessment.

**Action following a report of sexual violence and/or sexual harassment**

We will carefully consider any report of sexual violence and/or sexual harassment. Important considerations will include:

- The wishes of the alleged victim in terms of how they want to proceed. This is especially important in the context of sexual violence and sexual harassment. Victims should be given as much control as is reasonably possible over decisions regarding how any investigation will be progressed and any support that they will be offered.
- The nature of the alleged incident(s).
- The ages of the students involved as indicated by the Traffic Light Tool.
- The developmental stages of the students involved as indicated by the Traffic Light Tool.
- Any power imbalance between the students (for example, is the alleged perpetrator significantly older?).
- If the alleged incident is a one off or a sustained pattern of abuse (where this may be known).
- Whether there are any ongoing risks.
- Other related issues and wider context.

Where incidents and/or behaviours are associated with factors outside the school or occur between children outside the school, we will consider contextual safeguarding. This simply means assessments of children in such cases should consider whether wider environmental factors are present in a child's life that is a threat to their safety and/or welfare.

### **Options to manage the report**

We will consider every report on a case-by-case basis. When to inform the alleged perpetrator will be a decision that will be carefully considered. Where a report is going to be made to Children's Social Care and/or the Police, then, as a general rule, we will speak to the relevant agency and discuss next steps and how the alleged perpetrator will be informed of the allegations.

There are four likely scenarios we will need to consider when managing any reports of sexual violence and/or sexual harassment.

#### **1. Manage internally**

In some cases of sexual harassment (for example, one-off incidents) the school may take the view that the students concerned are not in need of Early Help or statutory intervention and that it would be appropriate to handle the incident internally, perhaps through utilising our Behaviour and Anti-Bullying Policies and by providing pastoral support.

#### **2. Early Help**

In line with the above, we may decide that the children involved do not require statutory interventions but may benefit from Early Help. Early Help can be particularly useful to address non-violent harmful sexual behaviour and may prevent escalation of sexual violence.

### 3. Referral to Children's Social Care

Where a child has been harmed, is at risk of harm or is in immediate danger, a likely course of action will be that we make a referral to local children's social care and/or police

### 4. Reporting to the Police

- Where a report of rape, assault by penetration or sexual assault is made, the starting point is this should be passed on to the Police.
- Reporting to the Police will generally be in parallel with referrals to Children's Social Care.
- At this stage, schools will generally inform parents unless there are compelling reasons not to do so (for example, if informing a parent is likely to put a child at additional risk). In circumstances where parents have not been informed, it will be especially important that the school supports the child in any decision they take. This should be in conjunction with the support of Children's Social Care.
- Where a report has been made to the Police, the school will consult the Police and agree what information can be disclosed to staff and others; in particular, the alleged perpetrator and their parents. We will also discuss the best way to protect the victim and their anonymity.

### **Ongoing Considerations: victim and alleged perpetrator sharing classes**

We will consider the scenario where the victim and alleged perpetrator are sharing classes and sharing space at school. This will inevitably involve complex and difficult professional decisions, including considering our duty to safeguard children and our duty to educate them. It is important each report is considered on a case-by-case basis and risk assessments are updated as appropriate.

Where there is a criminal investigation, the alleged perpetrator should be removed from any classes they share with the victim. We will consider how best to keep the victim and alleged perpetrator a reasonable distance apart on school premises. This is in the best interests of both students and should not be perceived to be a judgement on the guilt of the alleged perpetrator; close liaison with the police is essential.

DfE guidance states that where a criminal investigation into a rape or assault by penetration leads to a conviction or caution, the school should take suitable action, if they have not already done so. In all but the most exceptional of circumstances, the rape or assault is likely to constitute a serious breach of discipline and lead to the view that allowing the perpetrator to remain in the same school would seriously harm the education or welfare of the victim (and potentially other students). Where a criminal investigation into sexual assault leads to a conviction or caution, we will consider any suitable sanctions in light of our Behaviour Policy, including consideration of permanent exclusion (even if the incident(s) has not occurred in school).

Where the perpetrator is going to remain at school, the principle would be to continue keeping the victim and perpetrator in separate classes and continue to consider the most appropriate way to manage potential contact. The nature of the conviction or caution and wishes of the victim will be especially important in determining how to proceed in such cases. This will be detailed in the risk assessment.

The fact that another body is investigating or has investigated an incident does not in itself prevent Thomas Estley from imposing a sanction in accordance with the school's Behaviour Policy, using the balance of probabilities to draw objective and appropriate conclusions.

Reports of sexual assault and sexual harassment will, in some cases, not lead to a report to the Police (for a variety of reasons). In some cases, rape, assault by penetration, sexual assault or sexual harassment is reported to the police and the case is not progressed or is reported to the Police and ultimately results in a not-guilty verdict. The process will have affected both victim and alleged perpetrator and these results do not necessarily mean the offence did not happen or that the victim lied. Appropriate support should be provided to both as required, and consideration will be given when considering the sharing of classes and potential contact as required on a case-by-case basis.

All of the above should be considered with the needs and wishes of the victim at the heart of the process and any arrangements will be kept under review.

### **Safeguarding other children**

Consideration should be given to supporting children who have witnessed sexual violence, especially rape and assault by penetration. Witnessing such an event is likely to be traumatic and support may be required. We will signpost agencies and support services available where needed. Following any report of sexual violence or sexual harassment, it is likely that some children will take 'sides'. The school will do all we can to ensure both the victim and alleged perpetrator, and any witnesses, are not subject to any bullying or harassment.

Social media is very likely to play a central role in the consequences from any incident or alleged incident. There is the potential for contact between victim and alleged perpetrator and a very high likelihood that friends from either side could well harass the victim or alleged perpetrator online. Any evidence we have of students using social media inappropriately will be managed and sanctioned according to our Behaviour and Anti-Bullying Policies.

### **What we do in school to educate our students against harmful sexual behaviours**

We have a planned programme of evidence-based content delivered through our RSE and tutoring curriculum, and assemblies. Our programme is developed to be age and stage of development appropriate, and tackles issues such as:

- healthy and respectful relationships, including information on consent
- what respectful behaviour looks like
- gender roles, stereotyping, equality
- body confidence and self-esteem
- prejudiced behaviour
- that sexual violence and sexual harassment is always wrong
- addressing cultures of sexual harassment

### **Monitoring and Review of this Policy**

The implementation of this policy will be monitored by the Principal and Vice Principal (DSL). In addition, the Governing Body will be provided with relevant anonymous information regarding sexual harassment and sexual violence to enable it to carry out its oversight function. This policy will be reviewed by the Governing Body on a regular basis.