

Sexual Misconduct Policy

Doc ID: W17

Additionally refer to: Bullying and Harassment Policy
Disciplinary Policy
Domestic Abuse and Sexual Violence Policy
Employee Well-Being and Attendance Policy
Equality Diversity and Inclusion Policy
Freedom To Speak Up Guardian Policy
Grievance Policy
Handling concerns about Doctors and Dentists Policy
Health and Safety Policy
Social Media Policy
Violence and Aggression Policy

Version:	V1.0		
V1 Approved by	WPPG	JNCC	PAG
V1 Date approved	7 th January 2025	21 January 2025	22 nd January 2025
V1 Ratified:	Chief People Officer		
V1 Date Ratified:	29 th April 2025		
Document Lead	People Advisor Team		
Lead Director	Chief People Officer		
Date Issued:	April 2025		
Review Date:	April 2028		
Target Audience:	All Staff, Managers, Bank Workers, Volunteers, Secondees, Trainees		

Version Control Sheet

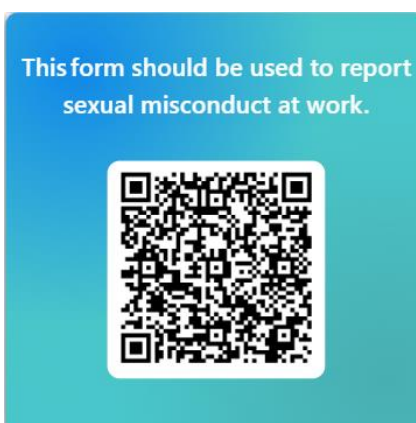
Document Lead/Contact:	Danielle Alexander
Document ID	W17
Version	V1.0
Status	Final
Date Equality Impact Assessment completed	December 2024
Review Date	April 2028
Distribution	All Staff, Managers, Bank workers, volunteers, secondees, trainees.
Key Words	Sexual Misconduct
Dissemination	Via HR SaTH HR Policies, communications newsletter

Version History

Version	Date	Author	Status	Comment
V1	January 2025	Danielle Alexander	Final	New Policy in response to the Worker Protection (Amendment of Equality Act 2010) Act 2023 which creates a duty on the Trust to take reasonable steps to prevent sexual harassment in the workplace. The policy also reflects the 10 core principles set out in the Sexual Safety in Healthcare Organisational Charter

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Policy On a Page

This Policy has been developed in response to the Worker Protection (Amendment of Equality Act 2010) Act 2023 which imposes a duty on the Trust to take reasonable steps to prevent Sexual harassment in the workplace.

The Trust is a signatory to the ten core principles of NHS England's Sexual Safety in Healthcare Organisational Charter (Appendix E).

The Trust commits to treat all complaints of sexual harassment in the workplace seriously and fairly; underpinned by our policy on Zero -Tolerance which aims to create a culture at work where everybody feels safe.

This policy outlines the procedure for tackling incidents of sexual misconduct in the workplace which involves three key steps:

- Disclosure,
- Reporting and
- Action.

The Trust will not hesitate in reporting individual cases to the police or to the Local Authority Designated officer where an employee is deemed to be in danger following a disclosure of sexual harassment and/or following an incident at work that led to the disclosure of sexual harassment which was serious enough to warrant a police referral.

This policy identifies key roles in the management of sexual misconduct cases and in particular they include the HR Advisory team as the main point of contact, line managers, HR Business Partners and the Decision-Making Group (DMG).

Employees subject to sexual misconduct from individuals not employed by the Trust, will be taken no less seriously. In these circumstances the Trust does not tolerate any sexual misconduct on its premises.

This policy applies to all employees of the Trust including bank workers, agency workers, contractors, secondees, volunteers, students and staff in training.

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 3) from any individual in the workplace.

1. Policy Statement

- 1.1 This Policy has been developed in response to the Worker Protection (Amendment of Equality Act 2010) Act 2023 which creates a duty on the Trust to take reasonable steps to prevent sexual harassment in the workplace.
- 1.2 The Trust will aim to meet the ten core principles of the Sexual Safety in Healthcare Organisational Charter (Appendix E) through the implementation of this Sexual Misconduct Policy, which includes clear responsibilities from the Board to employees and sets out the processes and procedures for managing sexual misconduct in the workplace. The Trust is a signatory to the sexual safety in healthcare organisational charter and supporting principles.
- 1.3 The Trust's policy on zero-tolerance is committed to robustly addressing sexual misconduct in the workplace and creating a culture at work where everybody feels safe. This is underpinned by a duty of care to protect employees from, and prevent incidents of, sexual misconduct. The Trust will not hesitate in reporting individual cases to the police or to the Local Authority Designated officer where an employee is deemed to be in danger following a disclosure of sexual harassment and/ or following an incident at work that led to the disclosure of sexual harassment which was serious enough to warrant a police referral.
- 1.4 The Trust acknowledges that anyone can be a victim of sexual misconduct which can occur where there is a power imbalance and people in certain groups may be more vulnerable than others. For example, national 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. Intersectional harassment occurs when the harassment relates to one or more protected characteristics.
- 1.5 If the Trust becomes aware that an employee is, or may be, perpetrating sexual misconduct, appropriate action will be taken. This may include action under the Disciplinary Policy or Handling Concerns about Doctors and Dentist policy if the allegations are against a doctor or dentist. Sexual misconduct cases will sometimes only be evidenced by the complainant's word against that of the alleged perpetrator. This should not prevent the complainant from speaking up. The Trust commits to treat all complaints seriously and fairly.
- 1.6 The policy outlines.
 - The procedure for tackling sexual misconduct and dealing with perpetrators.
 - Describes what sexual misconduct is and how to report it.
 - Adopts and signposts to other associated Trust policies such as Bullying and Harassment, Grievance, Disciplinary, and Handling Concerns about Doctors and Dentists Policy.
 - Provides a summary of support available to employees.
- 1.7 Employees subject to sexual misconduct from individuals not employed by the Trust, 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 their employer or representative organisation without delay, and appropriate steps will be taken to ensure the safety of those involved. This should be reported in the same way as if the alleged perpetrator was a Trust employee.
 - Following the receipt of allegations of sexual misconduct, 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.

2. Scope

- 2.1 This policy applies to all employees of the Trust including Bank workers, agency workers, contractors, secondees, volunteers, students and staff in training. The Trust expects all of these groups and others to comply with this policy.
- 2.2 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.
- 2.3 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 3) from any individual in the workplace.

3. Definitions

- 3.1 Definitions of sexual misconduct referred to in this policy and the roles that may be involved in reporting incidents of sexual misconduct 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 5 on disclosing and reporting 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.
 - **Zero tolerance** – any incident in which an employee is abused, threatened or assaulted in circumstances relating to their work is unacceptable and not tolerated. This includes the serious or persistent use of verbal abuse or sexual misconduct.
- 3.2 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.
- 3.3 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. The Trust will not hesitate in referring individual cases to the Police.
- 3.4 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.

3.5 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.

3.6 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's unwanted.
- It violates someone's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for them.

3.7 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 a potential sexual misconduct.

4. Roles and Responsibilities

4.1 **Trust Board** - The Trust Board oversees all Human Resources policies and discharges its responsibility to the Chief Executive and subsequently the Chief People Officer as the lead Executive Director for the development and implementation of this policy.

4.2 **Executive Management Team** - The Executive Management Team has responsibility to:

- Regularly review data relating to sexual misconduct and that lessons are learnt and changes in practice are made to improve sexual safety in the workplace.
- Ensure sufficient preventative measures are in place to avoid sexual misconduct in the workplace to create a culture at work where everybody feels safe.
- Ensure all employees and groups listed under the scope section of this policy are fully aware of the Trust's policy and position on sexual misconduct, and how to deal with disclosures appropriately.

- 4.3 **Chief People Officer** - The Chief People Officer has specific responsibility for the development, implementation and updating this policy, ensuring that it is effectively communicated to all employees and those groups detailed under the scope section and when needed amended to reflect changes in legislation.
- 4.4 **Human Resources** will:
- Provide specialist advice at all stages of a complaint of sexual misconduct being raised to the complainant, line manager, alleged perpetrator and in the event of a formal investigation, the case/commissioning manager, the investigating officer and disciplinary panel hearing etc.
 - Maintain confidentiality as far as possible unless there is a safeguarding concern that needs to be reported.
 - Signpost colleagues for appropriate support.
 - Manage all information in line with the requirements of the Corporate Records Management policy.
- 4.5 **Freedom to Speak up Guardian** will:
- Provide appropriate support and/or signpost support to those who have experienced sexual misconduct.
 - Assist with the reporting process where appropriate.
 - Be available to support the investigation if appropriate.
 - Be responsible for creating a culture where employees feel safe to work and raise concerns and feel listened to.
- 4.6 **Line Managers** will:
- Provide appropriate support and/or signpost support to those who disclose sexual misconduct.
 - Need to be aware of the full policy and procedure and their role when a disclosure of sexual misconduct is raised.
 - Be proactive in putting into place any reasonable adjustments including a Workplace Safety Plan if necessary.
 - Be available if an investigation is commissioned into a sexual misconduct incident.
 - Be responsible for creating a culture where employees feel safe to work and raise concerns and feel listened to.
 - Maintain confidentiality as far as possible unless there is a safeguarding concern that needs to be reported.
 - Provide support to an alleged perpetrator and/or signpost them to support.
 - Ensure that their staff are aware of this policy and procedure for disclosing and reporting sexual misconduct incidents.
- 4.7 **Employees** will:
- Need to be fully aware of this policy and procedure for reporting a disclosure of sexual misconduct and adhere to the sexual safety in healthcare organisational charter and supporting principles.
 - Challenge inappropriate behaviour of a sexual misconduct nature, safely, and report it.
 - Promote a culture that fosters openness and transparency and does not tolerate unwanted, harmful and/or inappropriate sexual behaviours.
 - Maintain confidentiality as far as possible unless there is a safeguarding concern that needs to be reported.

5. Procedure for disclosing reporting an incident of sexual misconduct

5.1 There are three main steps in responding to an incident of sexual misconduct:

- Disclosure.
- Reporting.
- Informal or formal action to address the complaint of sexual misconduct.

In the event of a disclosure of sexual misconduct the following steps should be followed (Appendix B).

5.2 Disclosure

5.2.1 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 a 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. Colleagues may choose to formally report an instance of sexual misconduct without having previously disclosed it. The same steps should be followed in these circumstances.

5.2.2 The employee who receives the disclosure should:

- **Ensure their colleague is safe:**
 - If they are unsafe or you cannot be assured, they are safe and you believe their life is in danger, take steps to immediately call the police (if not already informed) and seek immediate advice from the HR Advisory team.
 - If there are any safeguarding concerns (for example if there is a concern that someone is being co-coerced or controlled or where there are mental capacity concerns), seek advice from the Human Resources Advisory team.
 - Ensure support is provided as soon as possible as advised by the Human Resources Advisory team.
 - Consider any action that could be taken to ensure the immediate safety of the complainant. If the alleged perpetrator is a visitor and remains in the office, security may need to be contacted and also contact the Human Resources Advisory team for advice to co-ordinate escorting the alleged perpetrator from the building.
- **Signpost colleagues to this policy and:**
 - Refer them to the support available by the Trust for example the Staff Psychological Service and Occupational Health and counselling service and via external organisations and helplines (Appendix D).
 - Encourage the complainant to consider reporting their concern as set out in section 5, and complete the Online Sexual Misconduct Reporting Form (Appendix A) if it has not already been reported.
 - Inform the complainant that a note of the disclosure is being recorded in writing, that it is confidential, includes the date, time the disclosure was made, who it was made to, what was disclosed and what immediate actions were taken.
 - If the complainant does not want to take the disclosure any further, then their wishes must be respected. However, if the employee receiving the disclosure needs support or advice, then the HR Advisory team, should be contacted for advice in confidence.
 - Further guidance for employees who receive a disclosure for sexual misconduct from another employee is detailed in Appendix C.

5.2 Reporting sexual misconduct

5.2.1 The Trust strongly encourages all employees to report any instances of sexual misconduct. All reports will be taken seriously (including those that are made anonymously), regardless of the route taken. Early reporting is encouraged. There may be times when a complainant does not want to or feels unable to make a report soon after an alleged incident(s) of sexual misconduct. The barriers to early reporting are understood and acknowledged and a delayed decision to make a report will be respected and not treated with suspicion. There is no time limit for reports of sexual misconduct to be received.

5.2.2 There are three routes through which sexual misconduct may be reported to commence processes under this policy:

- **HR Advisory team:** a complainant or witness may contact the HR Advisory Team directly, or they may ask the person they have disclosed to, for example their line manager or a senior colleague, to do this for them.
- **Online Sexual Misconduct Reporting Form (Appendix A):** A complainant or witness may complete this form themselves, or they may ask the person they have disclosed to, or their Trade Union or Professional Organisation representative (TUPO) or their line manager or the Trust's Domestic Abuse and Sexual Violence Lead to assist them in completing it. The Online reporting form will be sent to the HR Advisory Team to a confidential/ secure inbox, accessible by only named individuals within the HR team.
- **Freedom To Speak Up (FTSU) Guardian:** a complainant or witness may seek the assistance of a FTSU Guardian in reporting an incident, who in turn will inform the HR Advisory Team of the complaint.

Reports may also be made to a line manager or senior colleague; however, to instigate a formal report one of the three routes above will need to be completed, and a line manager and senior colleague can action these on someone's behalf.

5.2.3 Raising a report of sexual misconduct anonymously

Employees who experience sexual misconduct, can report an incident anonymously through the Online Sexual Misconduct Form (Appendix A). It is preferable for individuals making a report to identify themselves, as this makes it more likely that reports can be fully and fairly investigated and/ or resolved and contributes to creating an open and trusting culture. It also means the colleague reporting the sexual misconduct can be kept informed, where appropriate, as to the progress of their report. However, it is recognised this is not always possible. If a report is made anonymously, the steps in this policy must be followed as closely as possible based on the information provided in the disclosure.

5.2.4 Sexual misconduct from service users, members of the public or third parties

Employees may experience sexual misconduct from service users, members of the public or third parties. Any instance of work-related sexual misconduct should be reported in line with this policy regardless of who the alleged perpetrator is.

5.2.5 Reporting sexual misconduct as a witness

If an employee witnesses what they think may be sexual misconduct in the workplace, they should consider the following actions:

- Offer support to the individual targeted or affected by the behaviour and/ or let them know the behaviour witnessed is unacceptable. If it is safe to do so.

- Encourage the employee to report the behaviour (see 5.2) and/ or report the incident on their behalf.

Reporting sexual misconduct is vital to ensure the Trust can protect its employees and meet its duty to prevent sexual harassment in the workplace. The witness should name the person who has subjected the individual to the behaviour and make a note of what they witnessed as this may be included if a Decision-Making Group (DMG) requires supporting evidence and where there is a need for an investigation. Witnesses of sexual misconduct can report it anonymously using the online form (Appendix A) but reporting by naming potential perpetrators is preferred.

6.0 Managing Reports of Sexual Misconduct (HR and the Decision-Making Group)

6.1 The Trust will ensure that all reports of potential sexual misconduct are managed appropriately, recognising that for those experiencing sexual misconduct it is extremely distressing and can be life changing. Additionally, the Trust acknowledges that it is also distressing and a serious matter for an employee accused of sexual misconduct. The Trust will not presume the accusation is either true or false prior to a fair and thorough investigation.

6.2 Sexual misconduct cases will sometimes only be evidenced by the complainant's word against that of the alleged perpetrator. This should not prevent the complainant from speaking up. The Trust will treat all complaints seriously and fairly.

6.3 Role of the HR Advisory team

The HR Advisory Team will notify the relevant HR Business Partner for the area where the complainant works, that a report of sexual misconduct has been received. The following checklist will be followed by HR:

- Has immediate support been offered to the complainant/ witnesses? With regard to the perpetrator, the support to be offered would need to come after the Decision-Making Group (DMG) has met as they need to consider whether exclusion/ suspension is necessary.
- Is the complainant safe, for example, has consideration been given to alternative working arrangements if the complainant and perpetrator are co-located/work in the same team?
- Identify the facts known at the point that a report of sexual misconduct has been raised:
 - How was the complaint reported?
 - Names of all individuals involved employment details etc,
 - Date(s) of incident(s),
 - Location (if applicable),
 - Have statements been received/ requested from the complainant/witnesses/alleged perpetrator, where appropriate?
 - Has the complainant identified a preferred outcome?
 - Does the complainant/alleged perpetrator work for the Trust? If not, which organisation do they work for?
 - If an internal employee, are there any similar live cases on file relating to the alleged perpetrator?
 - Identify those who 'need to know', for example, relevant line managers, external employer (in the scenario where one of the parties works for a different organisation). If the allegation is against a doctor or dentist the medical staffing team should be consulted.
 - Is there a requirement to consult a subject matter expert for example, safeguarding. If so, record their advice. Following advice, is there a requirement to refer on to a third-party for their input, for example, police, Local Authority Designated Officer (LADO).

6.4 Decision Making Group (DMG)

It is advised that reports of sexual misconduct are considered by a Decision-Making Group (DMG) due to the seriousness of the allegations rather than the matter being addressed by a line manager albeit with HR advice. A DMG should be convened by the HR Advisory team as soon as reasonably practical following an incident being reported. The composition of the DMG will involve a senior manager as chair (who has not been involved in the case up to this point and is independent), the HR Business Partner for that area, the line manager of the alleged perpetrator, and possibly an individual(s) with subject matter expertise and/ or a safeguarding representative (if appropriate). The alleged perpetrator will be informed of the outcome of the DMG.

6.4.1 The purpose of the DMG is to:

- Ensure the complainant is safe and all safeguarding measures to protect the employee have been undertaken.
- Explore the facts of the case as presented from the three routes for reporting incidents of sexual misconduct (see 5.2). It is imperative that once the case has reached the DMG, the Online Sexual Misconduct Reporting Form is completed even though the complainant may have preferred to talk directly to the HR Advisory team or FTSU Guardian when reporting the incident.
- Gather further facts of the case and if insufficiently detailed, request a fact find and nominate an investigator to gather this information. Investigators of allegations of sexual misconduct will take particular care about the relevance and intrusiveness of questions required to investigate these matters. The complainant can be accompanied by a TUPO representative or by a work colleague.
- Identify if the issue raised has had any potential harm experienced by the employee raising the concern or complaint.
- Agree who will be the key point of contact for the complainant and alleged perpetrator and advise them of this.
- Whether a risk assessment is required to consider any potential further harm from the alleged perpetrator to the individual or others.
- Identify whether there is a case to answer in terms of whether the case would be dealt with formally under the relevant Trust policy and an investigation commissioned, ensuring the case management approach is set out clearly or identify whether informal action will be pursued.
- Record the outcome and recommended next steps from the decision-making group.
- Agreement of what communications are necessary to the complainant, perpetrator and line managers and to notify other parties who may need to be aware.
- Consider notifying the police (see 3.2) and/ or other relevant agencies, including the alleged perpetrators employer if they are not an employee of the Trust.
- The outcome report by the DMG should be completed within 5 working days of the DMG meeting.

6.4.2 Next steps following a DMG Meeting

Following the DMG meeting, the HR Business Partner/ HR Advisory team will action the recommended steps set out in the DMG outcome report as soon as reasonably practical. The following are not mutually exclusive, and may be considered as next steps:

- Communicating with the complainant, perpetrator and line managers as agreed with the DMG and to notify other parties who may need to be aware of the action the Trust will be taking.
- Further fact finding may be necessary if there was not sufficient evidence to enable the DMG to make a reasonable decision on the next steps required to address the reported sexual misconduct.

- If the DMG concluded there was no case to answer, the complainant, alleged perpetrator, and respective line managers and any witnesses will be informed, and the case will be closed. If there is a need for ongoing support, that will be reflected in the letter. If the DMG recommended that the alleged perpetrator should receive further training relevant to the complainant's allegations but not serious enough to pursue any formal action that should also be contained in the letter.
- If the DMG concluded there was a case to answer, a commissioning manager would need to be appointed who in turn will appoint an independent investigator and follow the Trust's Employee Investigations policy which includes identifying an investigator. The outcome from the investigation could either involve the matter being pursued further under the Trust's Disciplinary policy or through an informal route (refer to the Trust's Employee Investigation policy and Disciplinary policy as required).
- Where the alleged perpetrator is a doctor or dentist the DMG may recommend an investigation under the Maintaining High Professional Standards framework, in which case, a case manager will need to be appointed to decide whether to pursue a formal investigation under the Trust's policy for Handling concerns about Doctors' and Dentists' conduct and capability', having taken advice from Practitioner Performance Advice (PPA), and the Medical Director.
- Whilst the investigation is being undertaken, the management arrangements for both parties in terms of work location and line management will need to be considered (including consideration of suspension/ exclusion). This point also applies if the Disciplinary or Grievance policies are recommended to address a case.
- If a sexual misconduct report has been raised as a Grievance, and the DMG conclude that the matter is best dealt with under the Grievance policy the Trust's policy will be followed.
- If the matter is deemed by the DMG to be serious this could involve moving directly to invoke the Disciplinary policy/ Handling Doctors and Dentists Concerns and suspension/ exclusion of the alleged perpetrator would be a consideration. The parallel action for consideration and advice from the Safeguarding representative on the DMG could be to recommend involving the police and/ or other relevant agencies (this could include reporting an employee holding a professional registration to their relevant statutory regulator in accordance with their relevant professional codes of conduct) (see 9.0 and 10.0).
 - Where it is agreed that a police or local authority designated officer (LADO) referral is required, this would need to be escalated to a senior manager for actioning in the department where the complainant works. In these circumstances there needs to be collaboration with the police when to commence an internal HR investigation.
 - If the complainant does not want further action to be taken, sensitive consideration will be given. The Trust will need to determine whether any action needs to be taken, given its duty of care to its employees.
 - Inform the alleged perpetrator's employers if not an employee of the Trust and be clear what HR process would follow to address the complaint.
 - If a contractor or agency worker is found to be in breach of this policy, their employing organisation will be informed and their engagement with the Trust maybe terminated immediately.
 - If a secondee into the Trust, the secondment maybe immediately terminated. The Trust will share details of the reason for termination with their employing organisation and will cooperate fully in an investigation of allegations that they may wish to conduct.

6.5 Investigations

Investigations will be conducted in accordance with the relevant Trust policy i.e. Disciplinary policy/ Handling concerns about Doctors' and Dentists' conduct and capability. There will be additional considerations and adjustments when the investigation is regarding sexual misconduct. These considerations and adjustments listed below apply to all investigations under the relevant Trust policy:

- Where appropriate the commissioning/ case manager may appoint an externally sourced investigator with the relevant skills and experience. Alternatively, they may appoint a subject matter expert(s) to support the investigating officer.
- Investigators of allegations of sexual misconduct will take particular care about the relevance and intrusiveness of questions required to investigate these matters. This includes taking great care when asking questions of a personal nature
- Greater flexibility will be applied to the complainant's right to be accompanied, particularly by a friend or family member (in a supportive capacity) in addition to the usual right to be accompanied by a trade union representative or workplace colleague
- Where complainants and alleged perpetrators work together, it may be necessary to discuss temporary changes to working arrangements. It is not normal practice to move a complainant as a first step, unless they have requested this and our Trust will seek to move alleged perpetrators, wherever possible.
- The complainant or individual who has reported sexual misconduct and the alleged perpetrator will be updated sensitively and independently of each other by the case manager throughout any formal process, but they will not normally be informed of the outcome or action taken where this relates to personal and/ or confidential information of another employee.
- The commissioning/ case manager will ensure relevant support available by the Trust for example the Staff Psychological Service and Occupational Health and counselling service and via external organisations and helplines (see Appendix D) is made available to both the complainant and alleged perpetrator.
- As part of our supportive approach, where concerns regarding attendance and/or capability of the complainant or an alleged perpetrator, temporary adjustments to the attendance and/or capability process will be considered by the case/ commissioning manager and/or line manager to ensure any processes can be undertaken without delay. Any adjustments should be documented, reviewed regularly and shared with relevant parties i.e. the line manager.
- If the individual subjected to or reporting the alleged sexual misconduct does not want further action to be taken, sensitive consideration will be given. However, the Trust will determine what action it ought to take, in line with this policy, independently of the report of sexual misconduct raised. This may involve wider agencies such as local authority colleagues or police if deemed appropriate.

7. Victimisation, including when no further action is taken

- 7.1 There will be no negative consequences for individuals or teams who have made reports of sexual misconduct that are not upheld or taken forward.
- 7.2 The Trust does not tolerate harassment or victimisation of anyone reporting sexual misconduct and will not tolerate any attempt to persuade or force an employee to not raise their concerns. 'Victimisation' is when someone is treated less favourably as a result of being involved with a discrimination or harassment complaint and is unlawful under the Equality Act 2010. The Trust will uphold its duty of care to ensure colleagues are fully supported when reporting sexual misconduct, whether their complaint is upheld or not.
- 7.3 Any retaliation and victimisation of an individual raising a report or acting as a witness should be reported to a line manager or the HR Advisory team.
- 7.4 Employees who raise a report of sexual misconduct (whether founded or not) will always be supported.
- 7.5 An employee who is found to have deliberately made false allegations of a vexatious nature may be subject to disciplinary action as outlined in the disciplinary policy (W7 or W37).

8. Support

- 8.1 Managing and supporting disclosures and reports of sexual misconduct is challenging for all parties involved. The Trust will offer trauma informed support to the complainant, alleged perpetrator and any witnesses as well as line managers and anyone else affected by the disclosure. A range of internal and external support services are available (Appendix D).
- 8.2 Incidents of sexual misconduct can have a long-term impact on those who directly experience them as well as their friends and family. A complainant may need adjustments to support them to fulfil their role and workload, especially while an investigation is ongoing. The complainant should have a conversation with their line manager or through a referral to occupational health to review matters such as their current working arrangements and consider whether any additional support is needed, for example, by using the flexible working or special leave policies.
- 8.3 Where concerns regarding attendance and/ or capability of the complainant may be connected to a sexual misconduct incident, adjustments to the attendance and/or capability process will be considered by the individual's line manager. Any adjustments should be documented, reviewed regularly and shared with relevant parties i.e. the line manager.
- 8.4 It is recognised that when receiving a disclosure or complaint of sexual misconduct, it may be distressing for the individual who receives it. If this is the case, the HR Advisory team should be contacted or the Freedom to speak up Guardian.
- 8.5 The internal support services available include:
- The Staff Psychology Service is available to support any member of staff who is experiencing emotional distress in relation to a work-related issue. Individuals wanting to access their support can refer themselves by emailing: sath.staffpsychology@nhs.net or a manager can refer on their behalf. Information about the service is also available on the intranet: [SaTH Intranet - Staff Psychology Service](#)
 - HELP, SaTH's Employee Assistance Provider, provide confidential, independent, and unbiased information and guidance from a team of trained wellbeing and counselling practitioners. Should you wish, you can contact them by calling 0800 047 8843 or visiting: <https://sath.workplacewellbeing.com> and <https://sath.optimise.health> HELP
 - The People Advisory Service are a confidential and safe team to speak to in relation to sexual safety in the workplace and can offer further guidance and information on other services, in addition to support.
 - Domestic abuse and sexual violence lead (DASV).
 - Safeguarding lead for the Trust.
 - Mental Health First Aiders (MHFAs) and Peer Listeners.
 - Freedom To Speak Up Guardians (FTSU) can raise issues or concerns in confidence, who will use their expertise to support you and ensure your complaint is listened to confidentially and taken down the correct channel, if appropriate.
 - Equality Diversity Champions and Staff Networks. Are an important mechanism to allow colleagues to discuss their experiences, offering a safe space, and help us to shape our organisational culture to create a fairer and inclusive work environments for all.
 - Health and Wellbeing services via the Trust intranet.
 - For a range of external support services see Appendix D.

9. Reporting to statutory regulators

- 9.1 The Trust reserves the right and may be obliged to report an employee holding a professional registration of any description to their relevant statutory regulator (for example, Nursing and Midwifery Council, General Medical Council, The Health and Care Professions Council, the Law Society) in accordance with their relevant professional codes of conduct.

10. Police involvement

- 10.1 A disclosure of sexual misconduct may allege a criminal act. In such a case, the HR Advisory team will be responsible for ensuring that any allegations received that may be criminal in nature are referred to the police. Where possible a conversation with the complainant on their wish for police involvement should precede any referral. If you believe there is a danger to life, you should call the police.
- 10.2 The HR Advisory team will routinely work with the Safeguarding team using our safeguarding policy to review each case on a case-by-case basis and consider the need of escalation to relevant authorities, including the police and referrals are made where there is concern that the allegations may constitute a criminal act. The Trust will ensure that matters are referred to the wider authorities such as the relevant Local Authority Designated Officer (LADO) and/ or the relevant local authority Safeguarding team where appropriate.
- 10.3 Where an internal investigation is taking place, The HR Advisory team will consult with the police at agreed intervals about concurrent investigation processes to ensure the criminal investigation/ process is not prejudiced.
- 10.4 Complainants can report sexual misconduct to the police directly. They may express a wish that they do not want to prosecute, or they wish to report and think about prosecution later. These are matters that must be discussed with the police directly.

11. Confidentiality

- 11.1 Confidentiality will be maintained wherever possible, subject to legal and statutory safeguarding obligations and duties to protect other people. Details of investigations and complaints must only be disclosed on a 'need to know' basis. Unauthorised disclosure of confidential information may result in disciplinary action, as may any concerns about attempts to influence or intimidate a witness.
- 11.2 The Trust does not use confidentiality or non-disclosure agreements to prevent reporting of sexual misconduct or whistleblowing.
- 11.3 Data will be collated centrally by the HR Advisory team and only shared on a need-to-know basis to inform the investigations and preventative actions. Some anonymised data will be shared with Executive Directors to facilitate oversight of this policy such as the number of cases, outcomes and overall summary data. This will not include personally identifiable data and will provide assurance to the Executive Directors that allegations relating to sexual misconduct are being managed accordingly.
- 11.4 Confidentiality obligations apply to anyone who is involved including the alleged perpetrator, the complainant, witnesses and line managers. The matter should not be discussed with anyone else other than the investigating officer, HR colleagues directly involved, and where represented, TUPO representatives.

12. Training

- 12.1 Training and briefing of this policy and procedure is key to its implementation. In addition to the dissemination of the policy via the intranet, there will need to be specific briefing and training of key groups of staff referred to throughout this policy. Notably HR colleagues, Occupational Health, Freedom to speak up Guardians, Managers, Safeguarding leads, TUPO representatives, Mental Health Practitioners and others. There will be separate communication that needs to ensure all employees are aware of this policy, the underpinning legislation and the Sexual Safety in Healthcare Charter.

13. Policy Review Process

- 13.1 The Trust will review this policy when there are changes to relevant legislation, or good practice, or within the normal policy review cycle, i.e. 3 years.
- 13.2 In order that this document remains current, any of the appendices to the policy can be amended and approved during the lifetime of the document without the policy having to return to the ratifying committee.

14. Equality Impact Assessment (EQIA)

- 14.1 This policy applies to all employees equally and does not discriminate positively or negatively between the protective characteristics.

15. Process for Monitoring Compliance

- 15.1 The level and type of monitoring will be confidential and only data reports showing the numbers of sexual misconduct incidents in a rolling 12 month period and the resultant action that was undertaken. Reporting to JNCC and PODAC.

Aspect of compliance or effectiveness being monitored	Monitoring method	Responsibility for monitoring	Frequency of monitoring	Group or Committee that will review the findings and monitor completion of any resulting action plan
Integrated into the Workforce Monitoring Report	Bi - Annual	HR	Bi – Annual	Trust Board and other relevant Committees

16. References

NHS England Sexual Misconduct policy,
NHS England Policy Framework,
NHS England Sexual Safety in Healthcare Charter,
Worker Protection (Amendment of Equality Act 2010) Act Oct: 2023,
Sexual Offences Act 2003,
Protection from Harassment Act 1997
Equality Act 2010

Appendix A: Online Sexual Misconduct Report Form

To access the Online Sexual Misconduct Report Form please scan the QR Code:



Questions included in the online reporting form

1) I am reporting this as:

- Someone who has experienced sexual misconduct
- A witness to sexual misconduct
(If you are reporting sexual misconduct in the workplace as a witness you must seek the consent of the individual who has been subjected to the sexual misconduct behaviour before you report. You must not disclose the identity of the individual who has been subjected to the sexual misconduct behaviour(s) if they do not consent.)
- Someone who has received a disclosure about sexual misconduct
- Freedom to Speak Up Guardian
- Human Resources Business Partner

2) Would you like to submit this report with your name included or remain anonymous?

- Name included
- Remain anonymous – Please move onto question 3

If you share your name, this will only be seen by the People Advisory Team, and members of the Decision-Making Group (DMG) panel whilst they review the report. The DMG will consist of an independent senior manager as chair, a HR Business Partner, the line manager of the alleged perpetrator, and possibly a Safeguarding colleague and a subject matter expert, depending on what is in the report.

Please note, if you are a Freedom to Speak Up Guardian or a member of the Human Resources Business Partnering team making this report for someone else, you should include your name.

2a) Your Name

Please enter your name if you have selected *Name included
[FREE TEXT BOX]

2b) Your Email

Please enter your email if you have selected *Name included
[FREE TEXT BOX]

3) Does the person you are reporting for consent to have their name included or do they want to remain anonymous?

- Name included
- Remain anonymous – Please move onto question 4

If you are reporting sexual misconduct in the workplace as a witness you must seek the consent of the individual who has been subjected to the sexual misconduct behaviour before you

report. You must not disclose the identity of the individual who has been subjected to the sexual misconduct behaviour(s) if they do not consent.

If you share your name, this will only be seen by the People Advisory Team, and members of the Decision-Making Group (DMG) panel whilst they review the report. The DMG will consist of an independent senior manager as chair, a HR Business Partner, the line manager of the alleged perpetrator, and possibly a Safeguarding colleague and a subject matter expert, depending on what is in the report.

Please note, if you are a Freedom to Speak Up Guardian or a member of the Human Resources Business Partnering team making this report for someone else, you should include your name.

3a) What is the name of the person who was the subject of the sexual misconduct?

Please enter name if you have selected *Name included

[FREE TEXT BOX]

3b) What is the email address of the person who was the subject of the sexual misconduct?

Please enter your email if you have selected *Name included

[FREE TEXT BOX]

4) Is this a single instance or multiple incidents?

- Single instance – Please move onto question 5
- Multiple incidents

4a) If multiple, please select the number of incidents

- 2
- 3 - 5
- 6 - 10
- More than 10

5) When did the incident(s) take place?

If unsure, please give an approximate date, or alternatively you can leave this blank

[FREE TEXT BOX]

6) Where did the incident(s) happen?

You can select multiple options

- Virtually – Using either work/ non-work equipment, and through any virtual platform including social media, email, and messaging services.
- Trust Premises at Royal Shrewsbury Hospital (RSH)
- Trust Premises at Princess Royal Hospital (PRH)
- Trust Premises at Shrewsbury Business Park (SBP)
- Trust Premises Other
- Offside – non-work event/ work event.

6a) Please give more detail about where the incident(s) happened.

For example, if it was virtually, it could have been on MS Teams, text messages, messaging apps or social media (LinkedIn, Instagram, Twitter, Facebook etc), over the phone.

If it happened in person, it could have been on trust premises or off-site at a work-related event or a social event.

If it was a combination of different settings, please list them.

[FREE TEXT BOX]

7) Do you want to name the individual (alleged perpetrator) involved?

- Yes
- No – Please move onto question 8

7a) What is their name?

Please enter name if you have selected *Yes

[FREE TEXT BOX]

7b) Can you provide their email address, directorate, team, job title or phone number to help identify them? (You may share as much or as little as you wish.)

Please enter information if you have selected *Yes included

[FREE TEXT BOX]

8) Please use the box below to provide details of the incident(s) you are reporting. You may share as much or as little about this as you wish.

[FREE TEXT BOX]

9) Did anyone else see the incident(s)?

- Yes
- No – Please move onto question - 10

9a) What are the name(s) of the other people who saw the incident(s)

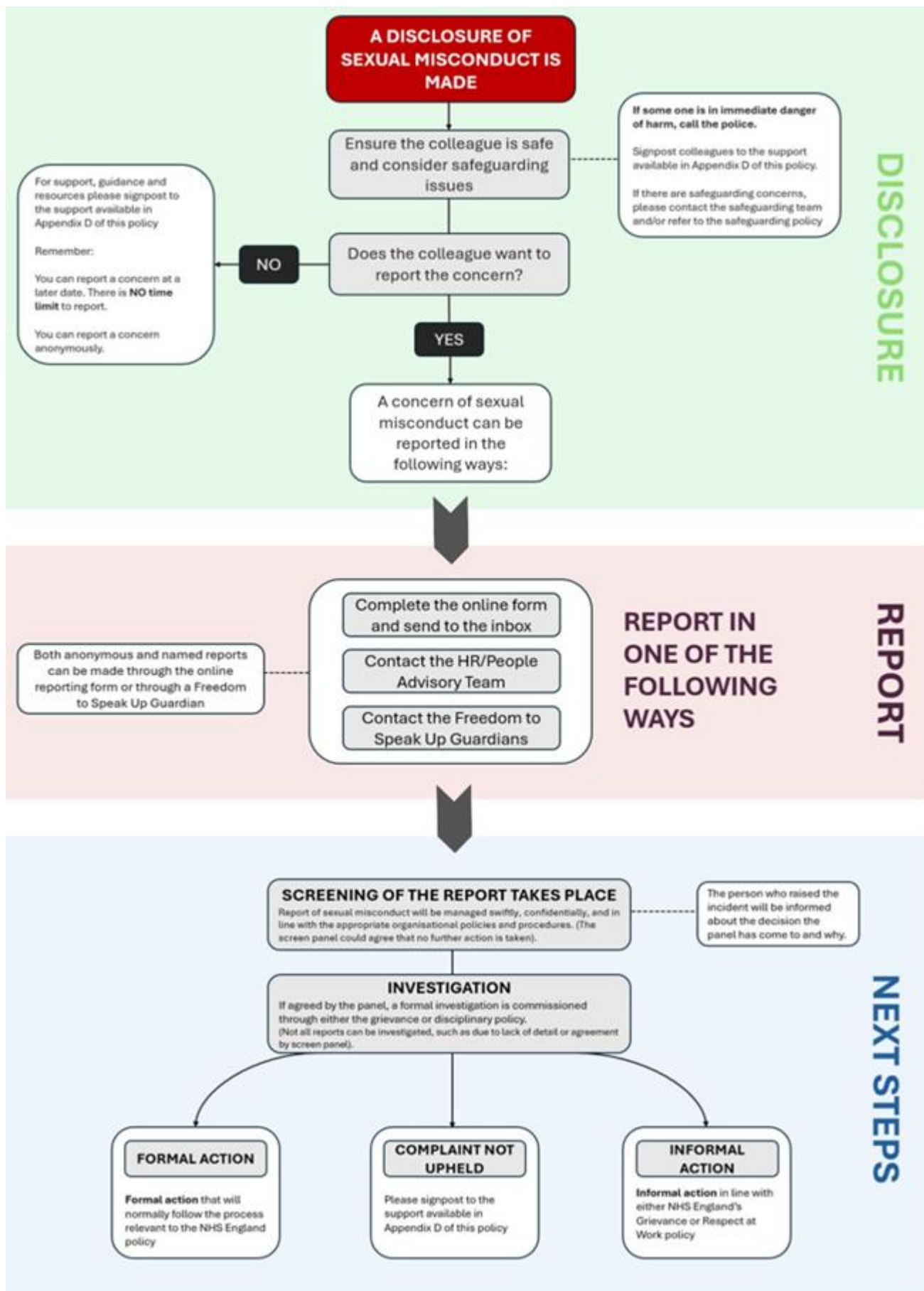
Please enter name if you have selected *Yes

[FREE TEXT BOX]

10) If you have submitted this report with your name included, a member of the People Advisory Team will contact you. In the box below, please indicate any adjustments you require, or if you have any preferences for who should contact you or how you are contacted (for example, female colleague, via email or telephone).

[FREE TEXT BOX]

Appendix B: Sexual Misconduct Reporting Flowchart



Appendix C: Guidance in Response to a Disclosure of Sexual Misconduct

How to respond to a disclosure

It is important that everyone working in the Trust 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 minimise trauma.

It is crucial to handle the conversation respectfully 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.

You should:

- Ensure they are safe
- Actively listen (without having any distractions such as your phone)
- Remember it's not their fault
- Recognise how tough it might have been for them to disclose
- Let them stay in control
- Believe and validate them
- Respect confidentiality but ensure they understand you may need to share information or example if a safeguarding concern is outlined
- Respect their decisions and boundaries
- Safely signpost them to support (and reporting options if they haven't reported already)

You should NOT:

- Push for details
- Make assumptions
- Ask why they did not say anything sooner, run away or fight back
- Be judgemental or criticise their choices
- Judge them for how they've responded to sexual harassment or abuse
- Express criticism or disbelief
- Look disinterested (think about your body language)
- Tell them what to do
- Try or promise to resolve an issue
- 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
- Play down or minimise their experience and the significance of what they are sharing.

Appendix D: External Support for Employees Experiencing Sexual Misconduct

Internal Support

- The Staff Psychology Service is available to support any member of staff who is experiencing emotional distress in relation to a work-related issue. Individuals wanting to access their support can refer themselves by emailing: sath.staffpsychology@nhs.net or a manager can refer on their behalf. Information about the service is also available on the intranet: [SaTH Intranet - Staff Psychology Service](#)
- HELP, SaTH's Employee Assistance Provider, provide confidential, independent, and unbiased information and guidance from a team of trained wellbeing and counselling practitioners. Should you wish, you can contact them by calling 0800 047 8843 or visiting: <https://sath.workplacewellbeing.com> and <https://sath.optimise.health> HELP
- The People Advisory Service are a confidential and safe team to speak to in relation to sexual safety in the workplace and can offer further guidance and information on other services, in addition to support.
- Domestic abuse and sexual violence lead (DASV).
- Safeguarding lead for the Trust.
- Mental Health First Aiders (MHFAs) and Peer Listeners.
- Freedom To Speak Up Guardians (FTSU) can raise issues or concerns in confidence, who will use their expertise to support you and ensure your complaint is listened to confidentially and taken down the correct channel, if appropriate.
- Equality Diversity Champions and Staff Networks. Are an important mechanism to allow colleagues to discuss their experiences, offering a safe space, and help us to shape our organisational culture to create a fairer and inclusive work environments for all.
- Health and Wellbeing services via the Trust intranet.

External Support

- Bi Survivors Network A group of bisexual survivors facilitating peer-led, online support groups for survivors of sexual and/ or domestic violence/ abuse.
- Citizens Advice: provide information about your legal rights in the workplace if you are experiencing sexual harassment.
- Equality Advisory & Support Service: helpline to advise on issues related to equality and human rights.
- Galop: support LGBT+ people who have experienced abuse and violence.
- 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.
- Getting help for domestic violence and abuse: provides practical advice and help to recognise the signs and where to get help.
- Health & Care Professions Council: sexual safety hub provides help and guidance about making a report to that organisation.
- Loving Me Support for people who are trans and non-binary victims and have experienced domestic or sexual violence.
- Man Kind Supports people who self-identify as male who are affected by unwanted sexual experiences.
- NAPAC (National Association for People Abused in Childhood) Offers support to adults who have experienced of all types of childhood abuse, including physical, sexual and emotional abuse or neglect.
- 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.
- One in Four Supporting people who have experienced sexual violence and abuse.
- Protect: free, confidential whistleblowing advice.

- Rape Crisis England and Wales.: 24/7 helpline that can provide immediate support to all those affected by rape, sexual assault, sexual harassment and all other forms of sexual violence and abuse in England and Wales.
- Rape Crisis Scotland: 24/7 helpline that can provide immediate support if you have experienced sexual misconduct.
- Respond Support services to people with learning disabilities, autism or both who have experience abuse, violence or trauma.
- Rights of Women Rights of Women offer support services providing free legal advice for women in the UK who are experiencing sexual harassment in the workplace.
- Safeline Provides specialist, tailored support for anyone affected by or at risk of sexual abuse and rape, that empowers them to make choices about the lives they want and helps prevent abuse.
- SARSAS Support for people affected by rape or any kind of sexual assault or abuse at any time in their lives
- Samaritans: support for anyone who's struggling to cope, and who needs someone to listen without judgement or pressure
- Sexual assault referral centres (SARCs): Offer medical, practical and emotional support to anyone who has been raped, sexually assaulted or abused. SARC's have specially trained doctors, nurses and support workers.
- Southall Black Sisters A support service for black and minoritised women who have experienced sexual violence.
- Stop it Now Provides support for people who have concerns that they may commit sexual abuse or sexual violence or are concerned about another person's behaviour, or a child's behaviour.
- Supporting a survivor of sexual violence: advice from Rape Crisis about how to support a survivor of sexual violence.
- Surviving Scrubs Share survivor stories of sexism, harassment, and sexual assault in the healthcare workforce.
- SurvivorsUK: Work with people of all ages, all genders, of all forms of sexual violence, sexual abuse and sexual exploitation, including support for partners and family members.
- The Survivors Trust: Work with people of all ages, all genders, of all forms of sexual violence, sexual abuse and sexual exploitation, including support for partners and family members.
- 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 E: Sexual Safety in Healthcare – Organisational Charter

The Commitment to the Charter will ensure a zero-tolerance approach to any unwanted, inappropriate and/or harmful sexual behaviours towards our workforce.

We commit to the following principles and actions to achieve this:

1. We will actively work to eradicate sexual harassment and abuse in the workplace.
2. We will promote a culture that fosters openness and transparency, and does not tolerate unwanted, harmful and/or inappropriate sexual behaviours.
3. We will take an intersectional approach to the sexual safety of our workforce, recognising certain groups will experience sexual harassment and abuse at a disproportionate rate.
4. We will provide appropriate support for those in our workforce who experience unwanted, inappropriate and/or harmful sexual behaviours.
5. We will clearly communicate standards of behaviour. This includes expected action for those who witness inappropriate, unwanted and/or harmful sexual behaviour.
6. We will ensure appropriate, specific, and clear policies are in place. They will include appropriate and timely action against alleged perpetrators.
7. We will ensure appropriate, specific, and clear training is in place.
8. We will ensure appropriate reporting mechanisms are in place for those experiencing these behaviours.
9. We will take all reports seriously and appropriate and timely action will be taken in all cases.
10. We will capture and share data on prevalence and staff experience transparently.

These commitments will apply to everyone in our organisation equally.