

Sexual Misconduct Policy

Version 1, February 2025

Trigger warning:

The contents of this policy may be upsetting for some colleagues to read.

If you would prefer to discuss this policy or need support, please contact a manager, member of the HR team or the safeguarding team.



Statement from the NHS Social Partnership Forum

This policy has been developed with input from the national Workforce Issues Group of the NHS Social Partnership Forum.

Employers should follow their local procedures for collective negotiation and agreement on policies. For most employers this is through the employer's joint negotiating committee.

The people policy frameworks can also be added to and improved through local discussion and agreement. Nothing in the national people policy frameworks automatically overrides local terms unless agreed at local level.

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SUBJECT TO RATIFICATION

What is a people policy?

A people policy provides support, advice and guidance on how you can expect to be treated and what is expected from you. The policy also provides advice and guidance to managers on how they can support in a way that meets your needs.

Why we have this policy

We have signed the [sexual safety in healthcare organisational charter](#). We are committed to a zero-tolerance approach to sexual misconduct in the workplace to create a workplace where everyone feels safe.

The Worker Protection (Amendment of Equality Act 2010) Act 2023 creates a duty on employers to take reasonable steps to stop sexual harassment from colleagues and third parties in the workplace. This includes protecting their employees and people employed by other organisations, such as suppliers or visitors, from sexual misconduct.

Sexual misconduct is unwanted behaviour of a sexual nature. It can happen to anyone, but it often happens where there is a power imbalance. People in some groups can be more vulnerable than others. For example, women, black, ethnic minority, disabled and LGBTQ+ people can be more at risk. Some people will also find it more difficult to report sexual misconduct.

This policy provides information about:

- how to recognise and report sexual misconduct
- our approach to taking actions when sexual misconduct is reported, including the other policies that might be used
- the support available to people involved or harmed. More information can be found within the toolkit.

What this policy covers

This policy covers sexual misconduct connected to work or the workplace. Sexual misconduct can include many things, such as:

- sexual comments or jokes
- unwanted touching or kissing
- showing sexual pictures
- staring at someone in a sexual way
- asking personal questions about someone's sex life
- sexual assault or rape

Appendix 3 within the toolkit provides more examples.

Sexual misconduct can take place at any time and any place; for example, at social or learning events or while travelling for work. It can take place in person or online (for example, through chat messages, phone calls, voice messages, or social media).

All NHS employees, non-executive directors, volunteers, agency and bank workers, students and learners, contractors, secondees and interns can use this policy to report sexual misconduct.

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

It provides advice about what to do when someone makes a disclosure about sexual misconduct to you, and a checklist of information you need to collect when someone wants to report this to the organisation.

How this policy promotes a kind and caring culture

We want NHS Staffordshire and Stoke on Trent Integrated Care Board to be a place where everyone feels safe to work, and where actions are taken to stop sexual misconduct.

This policy commits the organisation and everyone working within it to take all reports of sexual misconduct seriously and to act on all reports. A zero-tolerance approach to sexual misconduct in the workplace is crucial to promoting a kind and caring culture.

How do we know this policy treats people fairly?

Whenever we write a policy, we do an 'equality impact assessment' (EIA) to ensure it treats everyone fairly, and it does not disadvantage or discriminate against anyone or any protected group.

We also review our policies regularly to see how we are doing. This includes listening to colleagues' views and reviewing information about how the policy works in practice.

Appendix 7 outlines how this policy will be monitored to ensure it treats everyone fairly.

Language used in this policy

A disclosure

If you experience or witness sexual misconduct you may choose to tell someone at work about your experience. This might be your line manager, supervisor, a colleague or anyone else you trust including a freedom to speak up guardian, HR representative, a colleague from the safeguarding team or a trade union representative.

It is important that the person who receives a disclosure uses the guidance in this policy in appendix 11 within the toolkit.

If you make a disclosure to someone this does not mean that you have made or must make a report.

Report

A report is different to a disclosure. A report involves telling someone who is in a position of responsibility or authority in the organisation about sexual misconduct that has happened to you or that you have witnessed.

A report means you are requesting that the organisation makes decisions and takes actions to stop it from happening again.

Page 9 provides information about how to report sexual misconduct.

Review group

A review group is responsible for using the information provided by you in your report to agree what to do about sexual misconduct. Page 11 provides more information about a review group.

Advice and support

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

Sexual misconduct can take place when there are no other witnesses. This does not change the response you should receive. You will be believed and supported.

If you can, write down what happened as soon as you can. Include dates and the order that events took place, and how they made you feel. This will help you to remember the details.

It's important you speak to someone you trust, to get support and to decide what to do. This is often called a 'disclosure'.

When speaking with others, it's important that you are given the time to clearly express:

- what you need, including support
- what you want to happen next
- what you expect them to do.

For example, you might discuss:

- getting help or advice from a manager or someone else
- this policy to decide how to report what happened
- that you need more time before you decide what to do

You can also get advice and support from an external organisation (listed in appendix 4).

If you decide and are ready to make a report, page 9 provides information about how to do this. Every report will be taken seriously and there is no time limit – you can make a report at any time.

People who aren't employed by the organisation

If your report is about the behaviour of someone at work, but they are not employed by the organisation, you should make a report using this policy.

The review group will liaise with the employer of the individual and will agree on the actions to support you and to prevent it from happening again.

Patients and service users

If your report is about the behaviour of a service user, patient, or a member of the public, you should speak to your line manager or the person in charge as soon as possible after the event happens, if you can.

This will allow them to take action as soon as possible using the Safeguarding Policy; for example, this could include warning a patient or service user about their behaviour or reporting a criminal act to the police.

Incidents unrelated to work

If you have been affected by a sexual safety incident, including domestic violence, that is not connected with work, the reporting process in this policy is not likely to apply, please refer to the ICB's Domestic Abuse and Sexual Safety Policy. However, the impact of the incident might affect you at work. If you need support, speak to your manager or a person you trust.

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

Witnessing behaviour

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

We can show others that we feel a behaviour is unacceptable. This will also give a voice to groups and individuals who may not feel able to challenge what is happening.

There may not always be a need to say something, and it may not always be safe to do so, but there are other actions we can take. These might include:

- asking someone to stop and being clear that the behaviour is inappropriate or unacceptable
- interrupting, diverting or distracting to allow someone to move away
- letting someone know you do not agree with what they are saying
- giving a disapproving look or not laughing at inappropriate jokes or comments
- asking someone else to help (for example, another colleague or security)
- seeking emergency help (call 999 if necessary)
- writing down what happened as a reminder for later action

You should speak to the person the behaviour was aimed at as soon as you can to give your support and to let them know that what you witnessed was unacceptable. Make sure you have a quiet and safe place to have this conversation, and you have enough time to talk fully.

Appendix 4 provides information about the support available to those involved.

Talk to them about what happened. Ensure they understand the reasons for reporting and ask if they agree with reporting their experience.

If they do not agree and you are worried about them or others, you should not put their name in your report. Speak to a member of the HR team or the safeguarding team to get advice.

Supporting a colleague

When someone talks to you about what they have seen or experienced, it is called a disclosure. You need to be supportive and sensitive. Appendix 11, within the toolkit, provides advice about what to do when a colleague discloses their experience of sexual misconduct to you. If you think urgent actions are required, it is important to be as open as possible with them about what urgent action you need to take and why.

If you believe that someone is in danger you should contact a member of the Safeguarding team who may contact the police and report the incident.

How to make a report

It is important that sexual misconduct is reported so actions can be taken to keep people safe and to prevent it from happening again.

There isn't a time limit but making a report as soon as possible will allow actions to be taken more quickly.

If you are reporting something you have witnessed, you should read page 8 and talk to the person the behaviour was aimed at before you make the report.

You can make a report yourself or you can ask the person you have disclosed to (for example, a colleague) to do this for you.

Reports may be made to:

- your line manager, another manager or a supervisor. They will ask a member of the HR team for guidance
- a member of the HR team
- a freedom to speak up guardian (FTSU)

A trade union representative or a domestic abuse workplace ambassador can support you to make a report.

Every report will be taken seriously.

Anonymous reports

If you give your name when you report sexual misconduct, the organisation will be able to complete a more in-depth investigation.

Providing your details can help the organisation to support you and signpost or refer you to further support.

All reports are taken seriously. If you do not feel you can provide your name, you can report anonymously.

Provide as much information as possible, including the times of events and the impact they are having on you and others. This will ensure the person reading your report can understand what happened.

The steps in this policy will be followed as closely as possible using the information you provide.

If remaining anonymous is the right option for you, you can raise this via the following route:

1. Via the ICB's anonymous electronic form: [\[add email\]](#)

Once a complaint or disclosure has been received this will be shared with the 'review group' for consideration of all appropriate action to be taken.

Listening to you

If you provide your name when you make a report, you will be given time to talk about what happened and discuss and agree what will happen next.

A suitable place to ensure you feel safe to talk will be agreed with you. You can bring a work colleague/friend, interpreter or a trade union representative to support you.

The person you speak to will:

- ask you for information about what happened using the questions in appendix 10
- use the advice in appendix 11 about how to respond to a disclosure or report

If you have any notes or evidence, it's a good idea to take them with you to the meeting. If you don't have evidence this won't mean your concern is not taken seriously.

During the meeting, we will also:

- discuss and agree how to manage your report
- discuss your wellbeing and the support you need and agree how this will be provided. Appendix 4 provides information about support
- agree next steps and who you should contact if you have any questions

If you are not clear how you would like your report to be managed, you might find that taking time to think about it or talking to someone you trust about your options helps.

If you decide to stop your report, your wishes will be respected where possible. Page 14 provides information about when the organisation might be required to continue to take action. If you change your mind, or the behaviour continues, you can use this policy later. There is no time limit.

Support

The person you give your report to will talk to you about the options for accessing help and support, including from the organisations listed in appendix 4.

If you are a member of a trade union, they can also provide advice and support.

Support for you to continue to work will be arranged where possible, based on advice from your organisation's occupational health team/service. Examples of support could include adjustments to your role, your working hours or location, or giving you time off to attend appointments to get help and support.

All support will be reviewed with you regularly to ensure it remains helpful and to identify any additional needs you may have.

If you can't attend work

If you don't feel able or well enough to attend work, you should let your line manager or other person in a position of responsibility know. They will provide advice about the ICB's Attendance Management Policy. If it is reasonable, managers may agree to remove absence related to sexual misconduct from processes to manage levels of sickness absence.

After you make a report

The ICB has a duty to ensure all employees involved with sexual misconduct cases are supported. This includes colleagues who have concerns raised about them.

The person you made your report to will request support from a review group to decide what to do. This will be arranged as soon as possible to ensure the report is managed quickly and in line with policies and procedures.

Review group

The review group will include:

- the person you made your report to
- a member of the HR team

It might also include:

- a senior manager
- the lead for sexual safety

- an expert, who could include:
 - a colleague from safeguarding
 - any other person who can provide advice that is needed

Appendix 5 provides more information about expert advice.

The review group will discuss the information provided, including the harm caused to you or others, and any other information available that is important to use alongside your report. For example, if there are aggravating factors, such as abuse of power over a more junior colleague.

The review group will review and make decisions about:

- actions that need to be taken quickly to prevent possible harm to you or others involved, using the template in appendix 8. For example, if the people involved work together, temporary changes to working arrangements may be needed
- assessments that might be needed to understand and mitigate against any further harm to you or others
- the immediate support you and others involved need
- which policies or procedure(s) are relevant to managing your report
- what communication is needed to protect you and others, and to notify the right people
- whether the police or other organisations need to be contacted
- who needs to be told about the actions that have been agreed

- how you and others involved will be updated about what will happen next
- Read more about providing information and updates on page 14.

The review group will use the checklist in appendix 9 to ensure that the plans to manage the report are clear. They will also ensure a record is kept (anonymously if needed).

Outcomes

The review group will ensure your views are considered when making decisions about how to manage your report. One or more of these outcomes could be agreed:

- a request for more information from you or others about what happened
- using the ICB's Disciplinary Policy to manage your report
- using options for resolution using the ICB's Bullying & Harassment or Grievance policy to manage your report (if it was raised as a grievance)
- using the Maintaining High Professional Standards (MHPS) policy if the report is about a doctor or dentist
- a referral to NHS England's Regional Head of Professional Standards if the report is about a GP, general dental practitioner, optometrist or ophthalmic medical practitioner working in primary

care and their name is included in one of the [England Performers Lists](#)

- using safeguarding policies to agree actions
- a report to the police
- a report to the employer of the person named in the report, if they are not employed by our organisation
- no further action

Investigations

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

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

- a work colleague attending meetings with you to support you, in addition to a trade union representative or colleague
- using an external investigator or an investigator with specific training, skills and experience
- using an expert(s) to support the investigation

Preventing victimisation

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

Harassment or victimisation of anyone who has reported, or has helped someone else to report, sexual misconduct is unacceptable as is any attempt to persuade or force an employee to not raise their concerns.

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

If you believe you have been victimised, this will be taken seriously.

You should report victimisation to a manager, a member of the HR team, a Freedom to Speak Up Guardian or your trade union representative.

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Providing information and updates

You will be given the name of the person you can go to with your questions and to get advice and support. You can also raise any concerns or discuss any further needs you have with them, and they will keep you updated. This will usually be the person you report your concern to or a member of the HR team.

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

The information that can be shared with you will be shared with you. You will not normally be told about personal or confidential outcomes or actions relating to another employee.

Confidentiality

The information you share when using this policy will be kept confidential where possible. Everyone involved in the process will be informed of their responsibilities to keep information confidential.

This means that only people who 'need to know' will receive the information because they are, or will be, involved in the process. You will be told who will receive the information, and why.

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

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

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

Telling your line manager

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

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

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

The person the report is about will often be told about some, or all, of the report to ensure they can take part in the investigation process.

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

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

Police investigations

If a report has been made to the police, their investigation cannot be impacted by the ICB's own investigation process.

This may mean there are delays in the ICB completing an investigation process. You will be told as soon as possible if the police ask for the process to stop or be put on hold. You will be told how long this might be for and we can discuss the support you and others involved will need during this time.

Statutory regulators

Sometimes, there may be a requirement to report an employee holding a professional registration to their statutory regulator (for example, Nursing and Midwifery Council, General Medical Council, the Health and Care Professions Council, The Law Society) in line with their relevant professional code of conduct.

A member of the HR team or the 'responsible officer' for medical professionals will be responsible for reporting to professional bodies.

They may take advice from a range of individuals including the most senior person from the relevant profession within the organisation (for example, the chief nurse) before making a formal referral.

Preventing sexual misconduct

The ICB will:

- review the likelihood and risks of sexual misconduct occurring at work from colleagues, volunteers, learners and others including patients, service users and visitors
- decide the actions that can be taken to reduce risks and prevent harm
- ensure the agreed actions are implemented and managed
- update policies and procedures to clarify the law, how everyone can expect to be treated and how to make a report
- review the effectiveness of policies and training
- communicate consistently about our values and expectations for behaviour and what actions may be taken when these are not met
- communicate with patients, service users and visitors about how we expect them to treat our staff and each other
- provide guidance and support to colleagues, helping them assist others if they witness sexual misconduct
- create a culture where people feel safe to talk about and report sexual misconduct
- ensure systems are in place to respond to reports and provide timely support to all employees impacted by sexual misconduct
- The ICB will use reports about sexual misconduct to prevent events from happening again, and to understand potential patterns and areas of concern and what is required to mitigate risks, take action, and improve the culture within teams and across the wider organisation.

Training

It is important that everyone understands:

- what appropriate and inappropriate behaviours are
- how to use this policy
- what to do if they experience or witness inappropriate behaviours

Managers and members of the HR Team and Freedom to Speak Up Guardians (FTSU) will receive training on this policy so they can offer support, advice and guidance to colleagues.

Feedback and experiences from those involved in using this policy will be used to create future training and ensure continuous reflection and learning across the organisation.

All ICB colleagues will be required to complete an online module within ESR 'Understanding Sexual Misconduct in the Workplace'. This eLearning module is mandated for all ICB colleagues and should be completed every 3 years.