

Sexual Violence and Sexual Harassment Policy

Brackenhill Primary School



1. Introduction

In December 2017, the Department for Education released advice on sexual violence and sexual harassment, to take into account the DfE and NSPCC focus on sexual harassment and sexual violence between children in schools. This advice for governing bodies, proprietors, head teachers, principals, senior leadership teams and designated safeguarding leads.

The advice is to be read and referenced alongside **Keeping Children Safe in Education September 2021** and the **Sexual violence and sexual harassment between children in schools and colleges**; the guidance seeks to define the issues, minimise risks and what to do if an incident occurs/alleged to have occurred.

2. Context

Victims and alleged perpetrators

There are many different ways to describe children who have been subjected to sexual violence and/or sexual harassment and many ways to describe those who are alleged to have carried out any form of abuse.

For the purposes of this advice, we use the term 'victim'. It is a widely recognised and understood term. It is important that we recognise that not everyone who has been subjected to sexual violence and/or sexual harassment considers themselves a victim or would want to be described in this way. Ultimately, we should be conscious of this when managing any incident and be prepared to use any term with which the individual child is most comfortable.

For the purpose of this advice we use the term 'alleged perpetrator'. It is important to remember that, as a child, any alleged perpetrator is entitled to, deserving of, and should be provided with, a different level of support to that which might be provided to an adult who is alleged to have abused a child.

3. What is sexual harassment and sexual violence?



Sexual violence

It is important that school and college staff are aware of sexual violence and the fact children can, and sometimes do, abuse their peers in this way and that it can happen both inside and outside of school/college. When referring to sexual violence we are referring to sexual violence 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 his penis, B does not consent to the penetration and A does not reasonably believe that B consents.

Assault by Penetration: A person (A) commits an offence if: s/he intentionally penetrates the vagina or anus of another person (B) with a part of her/his body or anything else, the penetration is sexual, B does not consent to the penetration and A does not reasonably believe that B consents.

Sexual Assault: A person (A) commits an offence of sexual assault if: s/he intentionally touches another person (B), the touching is sexual, B does not consent to the touching and A does not reasonably believe that B consents. (All staff should be aware that sexual assault covers a very wide range of behaviour so a single act of kissing someone without consent, or touching someone's bottom/breasts/genitalia without consent, can still constitute sexual assault.)

Sexual harassment

When referring to sexual harassment we mean 'unwanted conduct of a sexual nature' that can occur online and offline and both inside and outside of school/college. 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.

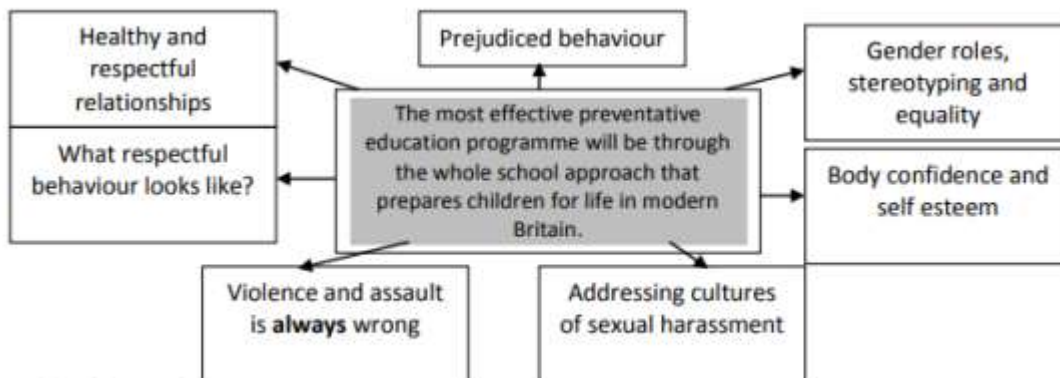
Whilst not intended to be an exhaustive list, sexual harassment can include:

- 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, interfering with someone's clothes (schools and colleges should be considering when any of this crosses a line into sexual violence - it is important to talk to and consider the experience of the victim) and displaying pictures, photos or drawings of a sexual nature; and
 - online sexual harassment. This may be standalone, or part of a wider pattern of sexual harassment and/or sexual violence. It may include:
 - Consensual and non-consensual sharing of nude and semi-nude images and/or videos. As set out in KCSIE Sharing nudes and semi-nudes: advice for education settings working with children and young people (which provides detailed advice for schools and colleges) taking and sharing nude photographs of U18s is a criminal offence:
 - sharing of unwanted explicit content
 - upskirting (is a criminal offence)
 - sexualised online bullying
 - unwanted sexual comments and messages, including, on social media
 - sexual exploitation; coercion and threats

4. Responsibilities

We have a statutory duty to safeguard and promote the welfare of the children at Brackenhill. As part of this duty, we are required to have regard to guidance issued by the Secretary of State. We are required by law to have a behaviour policy and measures in place to prevent all forms of bullying. All maintained schools must provide relationship education. We can play an important role in preventative education. Good practice is that which allows children an open forum to talk things through and all staff should be aware of how to support children and how to manage a disclosure.

5. Curriculum



6. Responding

Reports of sexual violence and sexual harassment are likely to be complex and require difficult professional decisions to be made, often quickly and under pressure. Some situations are 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 (as set out at paragraph 4);
- Creating and sharing sexual photos and videos of under-18s is illegal (often referred to as sexting). This includes children making and sharing sexual images and videos of themselves.

Sexual violence and sexual abuse can happen anywhere, and all staff working with children are advised to maintain an attitude of 'it could happen here'. We should be aware of, and respond appropriately to all reports and concerns, including those outside the school or college, and or online. We should be aware of the importance of:

- making clear that there is a zero-tolerance approach to sexual violence and sexual harassment and it is never acceptable, and it will not be tolerated and it should never be passed off as "banter", "just having a laugh", "part of growing up" or "boys being boys".
- we should all be aware of challenging physical behaviour (potentially criminal in nature), such as grabbing bottoms, breasts and genitalia, pulling down trousers, flicking bras and lifting up skirts. Dismissing or tolerating such behaviours risks normalising them.
- not recognising, acknowledging or understanding the scale of harassment and abuse and/or downplaying some behaviours related to abuse as it can lead to a culture of unacceptable

behaviour, an unsafe environment and in worst case scenarios a culture that normalises abuse leading to children accepting it as normal and not coming forward to report it; and

- understanding that all of the above can be driven by wider societal factors beyond the school and college, such as everyday sexist stereotypes and everyday sexist language.

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; and
- communication barriers and difficulties overcoming these barriers. Any reports of abuse involving children with SEND will therefore require close liaison with the designated safeguarding lead (or deputy) and the special educational needs co-ordinators (SENDCOs) or the named person with oversight for SEN in a college.

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

Whilst not the focus of this advice, we should be aware that our staff can be victims of sexual violence and sexual harassment. We have the staff code of conduct and The Domestic abuse policy in place to protect our staff from such abuse, including clear reporting and support mechanisms.

We are not alone in dealing with sexual violence and sexual harassment; statutory partners such as Children's Services and the police may need to become involved in some cases. It is likely that any issues will extend beyond school or college. Online issues and the use of various social media platforms can extend the impact of the abuse. This is also the case for children using public transport and school transport; we still have a duty to respond to all incidents they are made aware of even if the child has not reported directly, our duty is to promote the welfare of children and young people remains the same i.e. that friends/peers have shared their concerns to you.

It is essential that children are reassured that they are being taken seriously and will be supported and kept safe as far as is possible. A victim should never be given the impression they are creating a problem, nor should they be made to feel ashamed for making a report.

If staff have a concern about a child or a child makes a report to them:

- Do not promise confidentiality
- Inform the victim of the next steps
- Be supportive and respectful
- Be non-judgemental, listen to what the child is saying to you
- No leading questions, use open questions
- Record the disclosure (devote time to listening to what the child is saying, write notes if it is appropriate)
- Only record the facts as the child presents them
- No personal opinions
- Inform the Designated Safeguarding Lead immediately.

Please see Appendix D for the flow chart regarding actions where there are concerns about a child.

When to inform the alleged perpetrator will be a decision that should 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 should speak to the relevant agency and discuss next steps and how the alleged perpetrator will be informed of the allegations.

The Designated Safeguarding Lead should consider the following:-

- Parents or carers should normally be informed (unless this would put the victim at greater risk);
- the basic safeguarding principle is: if a child is at risk of harm, is in immediate danger or has been harmed a referral should be made to children's social care;
- Rape, assault by penetration and sexual assaults are crimes. The starting point is that reports should be passed to the police.

THE DESIGNATED SAFEGUARDING LEAD WILL MAKE A DECISION WHETHER TO CONTACT CHILDREN'S SERVICES AND THE POLICE. IF THE DESIGNATED SAFEGUARDING LEAD IS NOT AVAILABLE, IT IS YOUR RESPONSIBILITY TO CONTACT CHILDREN'S SERVICES AND/OR THE POLICE. LEAVING SCHOOL WITHOUT SHARING THE INFORMATION IS NOT AN OPTION.

Where there has been a report of sexual violence the Designated Safeguarding Lead should make an immediate risk assessment factoring:-

- the victim
- the alleged perpetrator
- other children (and sometimes staff)
- lessons where the victim and alleged perpetrator are together
- transport.

Risk assessments should be recorded (written or electronic) and should be kept under review.

7. Supporting young people through criminal cases

Where an allegation of sexual violence or sexual harassment is progressing through the criminal justice system, we should be aware of anonymity, witness support and the criminal process in general so they can offer support and act appropriately.

Anonymity

As a matter of effective safeguarding practice, we will do all we reasonably can to protect the anonymity of any children involved in any report of sexual violence or sexual harassment. Amongst other things, this will mean carefully considering, based on the nature of the report, which staff should know about the report and any support that will be put in place for the children involved.

Further information for supporting children and young people can be located here

<https://www.cps.gov.uk/legal-guidance/safeguarding-children-victims-and-witnesses>

In addition to the legal protections, as a matter of effective safeguarding practice, we should do all we reasonably can to protect the anonymity of any children involved in any report of sexual violence or sexual harassment. Amongst other things, this will mean carefully considering, based on the nature of the report, which staff should know about the report and any support that will be in place for the children involved. We should also consider the potential impact of social media in facilitating the spreading of rumours and exposing victims' identities.

8. Thresholds

In some cases of sexual harassment, for example one-off incidents, we may take the view that the children 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 their behaviour and bullying policies and by providing pastoral support. All concerns, discussions, decisions and reasons for decisions should be recorded (written or electronic).

We may decide that the children involved do not require statutory interventions but may benefit from Early Help. Early Help means providing support as soon as a problem emerges, at any point in a child's life. Providing early help is more effective in promoting the welfare of children than reacting later. Early Help can be particularly useful to address non-violent harmful sexual behaviour and may prevent escalation of sexual violence.

Where a child has been harmed, is at risk of harm, or is in immediate danger we should make a referral to local children's social care.

In some cases, Children's Social Care will review the evidence and decide a statutory intervention is not appropriate. The school or college (generally led by the Designated Safeguarding Lead or a deputy) should be prepared to refer again if they believe the child remains in immediate danger or at risk of harm. If a statutory assessment is not appropriate, the Designated Safeguarding Lead (or a deputy) should consider other support mechanisms such as early help, specialist support and pastoral support.

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.

If a child is convicted or receives a caution for a sexual offence, we should update our risk assessment, ensure relevant protections are in place for all the children at Brackenhill and, if it has not already consider any suitable action in light of their behaviour policy. If the perpetrator remains in the same school or college as the victim, we should be very clear as to their expectations regarding the perpetrator now they have been convicted or cautioned. This could include expectations regarding their behaviour and any restrictions the school or college thinks are reasonable and proportionate with regard to the perpetrator's timetable.

9. Ongoing responses

Consider the age and the developmental stage of the victim, the nature of the allegations and the potential risk of further abuse. We should be aware that, by the very nature of sexual violence and sexual harassment, a power imbalance is likely to have been created between the victim and alleged perpetrator.

Consider the proportionality of the response. Support should be tailored on a case-by-case basis. The support required regarding a one-off incident of sexualised name-calling is likely to be vastly different from that for a report of rape.

Victims may not disclose the whole picture immediately. They may be more comfortable providing information on a piecemeal basis. It is essential that dialogue is kept open and encouraged. When it is clear that ongoing support will be required, we should ask the victim if they would find it helpful to have a designated trusted adult (for example their teacher, learning mentors or Designated Safeguarding Lead) to talk to about their needs. The choice of any such adult should be the victims. We should respect and support this choice.

This should be because the victim wants to, not because it makes it easier to manage the situation. If required, we should provide a physical space for victims to withdraw. If the victim does move to another educational institution (for any reason), the new educational institution must be made aware of any ongoing support needed. The Designated Safeguarding Lead should take responsibility to ensure this happens as well as transferring the child protection file.

Following any report of sexual violence or sexual harassment, it is likely that some children will take “sides”. We should be doing all they can to ensure both the victim and alleged perpetrator, and any witnesses, are not being bullied or harassed.

10 Disciplinary Action

Finally and in some circumstances, we may need to consider whether disciplinary action may be appropriate for any child/children involved – any such action should address the abuse, the causes of it, and attitudes underlying it. Disciplinary action may sometimes be appropriate, including (a) to ensure that the child/children take(s) responsibility for and realise(s) the seriousness of their behaviour; (b) to demonstrate to the child/children and others that peer on peer abuse can never be tolerated; and (c) to ensure the safety and wellbeing of other children.

However, these considerations must be balanced against the child's/children's own potential unmet needs and any safeguarding concerns. Before deciding on appropriate action we will always consider its duty to safeguard all children from harm; the underlying reasons for a child's behaviour; any unmet needs, or harm or abuse suffered by the child; the risk that the child may pose to other children; and the severity of the peer on peer abuse and the causes of it.

We will, where appropriate, consider the potential benefit, as well as challenge, of using managed moves or exclusion as a response, and not as an intervention, recognising that even if this is ultimately deemed to be necessary, some of the measures referred to in this policy may still be required. Exclusion will only be considered as a last resort and only where necessary to ensure the safety and wellbeing of the other children in School. Engaging in Fair Access Panel Processes to assist with decision-making associated to managed moves and exclusions can also be beneficial (Farrer and Co. 2019).

11 Review of Circumstances

Following any incident of harm, it is necessary for the school/setting to consider if anything could have been done differently. This demonstrates how proactive the school is in continually reviewing its policies and systems in effectively keeping children safe.

12 Support and specialist organisations

Barnardo's	https://www.barnardos.org.uk
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Lucy Faithfull Foundation	https://www.lucyfaithfull.org.uk
NSPCC	https://www.nspcc.org.uk
Rape Crisis	https://www.rapecrisis.org.uk
UK Safer Internet Centre	https://www.saferinternet.org.uk
Anti-Bullying Alliance	https://www.anti-bullyingalliance.org.uk
MoJ Victim Support	https://www.rapecentre.org.uk
The Survivors Trust	https://thesurvivorstrust.org/isva
Victim Support	https://www.victimsupport.org.uk
Gillick Competency	https://www.nspcc.org.uk/preventing-abuse/child-protection-system/legal-definition-child-rights-law/gillick-competency-fraser-guidelines
Parent Zone	https://parentzone.org.uk
Thinkuknow	https://www.thinkuknow.co.uk/parents
Childline/IWF Remove a nude image shared online Report	https://www.nspcc.org.uk/about-us/news-opinion.2021/childline-tool-remove-nude-image-online/
UKCIS Sharing nudes and semi-nudes advice:	https://www.gov.uk/government/publications/sharing-nudes-and-semi-nudes-advice-for-education-settings-working-with-children-and-young-people/sharing-nudes-and-semi-nudes-advice-for-education-settings-working-with-children-and-young-people

This policy should be read in conjunction with:

Child Protection and Safeguarding Policy 2021

Behaviour policy

Relationship and Health education policy

DFE: Keeping Children Safe in Education. September 2021

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1014057/KCSIE_2021_September.pdf

DFE: Sexual Violence and Sexual Harassment between Children in schools and colleges December, 2017

<https://www.gov.uk/government/publications/sexual-violence-and-sexualharassment-between-children-in-schools-and-colleges>

Working Together to Safeguard Children, 2018

<https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>

UKCCIS: Sexting in We

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/609874/6_2939_SP_NCA_Sexting_In_Schools_FINAL_Update_Jan17.pdf

Farrer and Co: Peer on Peer Abuse Toolkit 2019.

<https://www.farrer.co.uk/globalassets/news-articles/downloads/peer-on-peer-abusetoolkit-14.pdf>

Annex A

Key definitions

Child-on-child sexual abuse: when a child (anyone under the age of 18) commits an act of sexual violence or harassment against another child

Sexual violence: rape, assault by penetration, or sexual assault (intentional sexual touching)

Sexual harassment: unwanted conduct of a sexual nature – such as sexual comments, sexual jokes or taunting, physical behaviour like interfering with clothes, or online harassment such as sexting

Upskirting: taking a picture under a person's clothing without them knowing to obtain sexual gratification or cause the victim humiliation, distress or alarm

Sexual activity is an offence if:

- Person B (the victim) does not consent
- Person A (the perpetrator) does not reasonably believe that Person B consents

Someone consents if they:

- Agree by choice
- Have the freedom and capacity to choose

Annex B

Case study

An 11-year-old girl reported to the class teacher that five boys in her friendship group were playing a game, which involved daring each other to use increasingly graphic sexually explicit language, describing what they would like to do to her. She was very upset but did not want to get anyone into trouble or everyone to know about it. She just wanted them to stop. She explained this to her head of year. The head of year explained to her that what she had experienced was extremely serious and reassured her that her reaction was completely understandable. He also explained that he would pass the report to the designated safeguarding lead to ensure records were updated. He explained he would be following the school's behaviour policy and would speak to the boys involved and their parents, making it clear that what they were doing was sexual bullying and harassment and taken extremely seriously. The girl's parents were contacted and given the opportunity to discuss the action the school planned to take.

Result: the boys were removed from the classroom and reprimanded with their parents present. It was made clear that the behaviour was unacceptable, and they received a punishment in line with the behaviour policy. They were also warned about the more severe consequences that would arise if the harassment continued.

Early Help

In line with point 1 above, the school may decide that the children involved do not require referral to statutory services but may benefit from early help. Early help means providing support as soon as a problem emerges, at any point in a child's life. Providing early help is more effective in promoting the welfare of children than reacting later. Early help can be particularly useful to address nonviolent HSB and may prevent escalation of sexual violence. It is particularly important that the designated safeguarding lead (and their deputies) know what the Early Help process is and how and where to access support.



Child Friendly Safeguarding Policy

At Brackenhill Primary School, all staff feel your health, safety and welfare are very important. In our school, we respect our children and help to protect your rights. We do our best to help you make good educational progress. We teach you how to recognise risks in different situations and how to protect yourself and stay safe.

Safeguarding means that school staff should:

- ✓ Protect you from harm;
- ✓ Make sure nothing stops you from being healthy or developing properly;
- ✓ Make sure you are safely looked after;
- ✓ Make sure you have the best life chances and can grow up happy and successful



How will we try to protect you?

- ✓ We try to provide a safe and secure environment for you to learn in and progress.
- ✓ We help to ensure that you remain safe, at home as well as at school.
- ✓ We think it is important for you to know where to get help if you are worried or unhappy about something.

What happens next?

Sometimes a member of staff at school will need to check things with Mrs Ishtiaq or Ms Mir and then, if they can deal with the issue themselves, they will.

There are times though when they may need to contact some other agencies for support. These may be Children's Social Care (Social Workers) or Police. There are lots of other agencies who support children and their families as well.

Staff will talk to you and explain all of this and you can always go and ask staff questions if you are unsure about anything.

All Children
deserve to feel-



Need to talk?

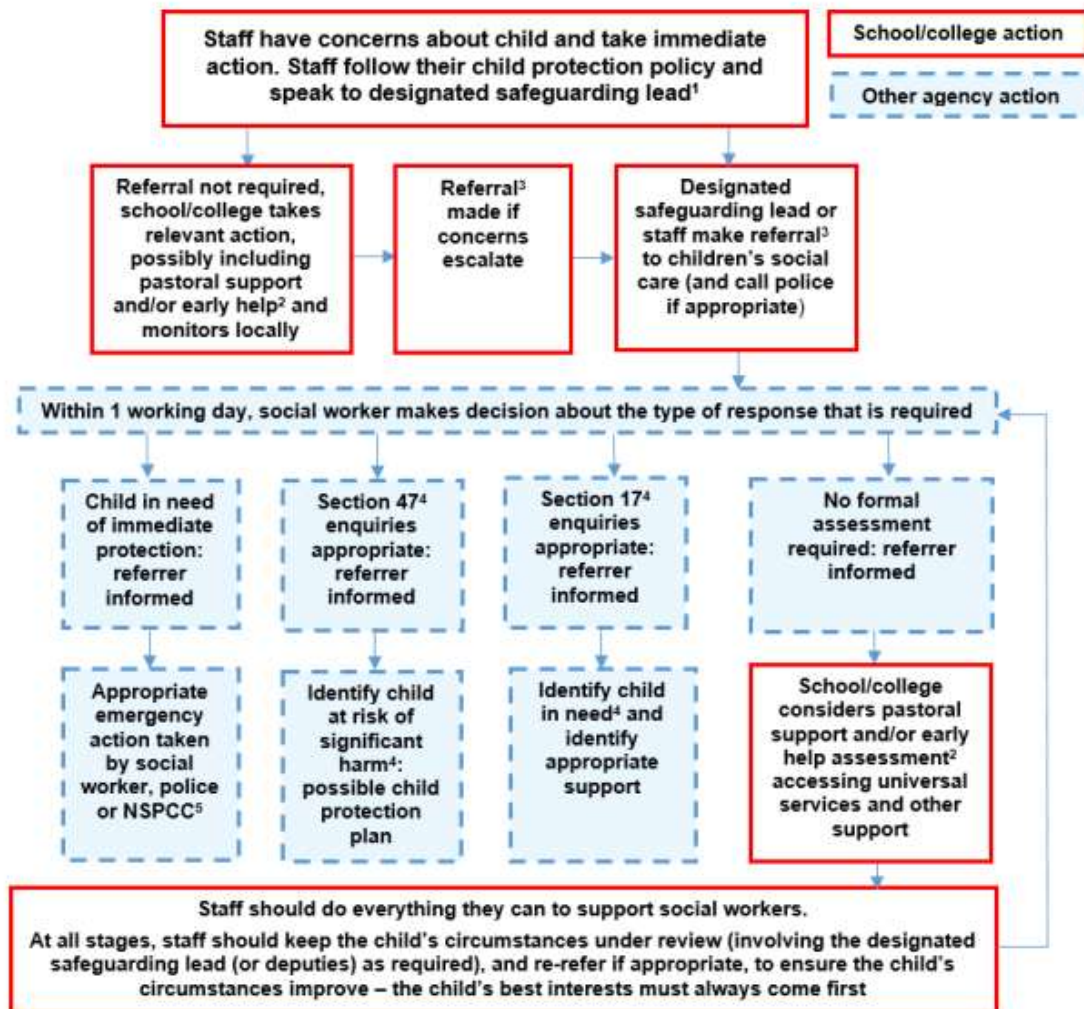
If you need to talk – we will listen. You can talk to any adult within the school. Anyone you feel comfortable with talking to, will listen and help you.

If you do not want to talk, you can always write it down and give it to a member of staff.

Or you can ring Childline:



Actions where there are concerns about a child



¹ In cases which also involve a concern or an allegation of abuse against a staff member, see Part Four of this guidance.

² Early help means providing support as soon as a problem emerges at any point in a child's life. Where a child would benefit from co-ordinated early help, an early help inter-agency assessment should be arranged. Chapter one of [Working Together to Safeguard Children](#) provides detailed guidance on the early help process.

³ Referrals should follow the process set out in the local threshold document and local protocol for assessment. Chapter one of [Working Together to Safeguard Children](#).

⁴ Under the Children Act 1989, local authorities are required to provide services for children in need for the purposes of safeguarding and promoting their welfare. Children in need may be assessed under section 17 of the Children Act 1989. Under section 47 of the Children Act 1989, where a local authority has reasonable cause to suspect that a child is suffering or likely to suffer significant harm, it has a duty to make enquiries to decide whether to take action to safeguard or promote the child's welfare. Full details are in Chapter one of [Working Together to Safeguard Children](#).

⁵ This could include applying for an Emergency Protection Order (EPO).