



Policies and Procedures 2023-24

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Sexual Harassment, Sexual Misconduct and Sexual Violence Policy

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1. Policy statement

Northumberland Skills is committed to ensuring a working and learning environment free from sexual harassment, sexual misconduct and sexual violence so all members of our campuses and the local community can enjoy the right to study, live, work and be respected for the contribution they make.

Sexual misconduct and violence can be experienced by any individual, regardless of sex, gender, sexual orientation, relationship status, age, disability, faith, ethnicity, nationality and economic status. However, women, members of the LGBTQIA+ community and individuals with disabilities are disproportionately affected by experiences of sexual violence. Experiences of sexual misconduct and violence may also intersect with other forms of harassment and discrimination.

Northumberland Skills will listen to and take seriously all disclosures of sexual harassment and sexual misconduct.

Northumberland Skills has implemented disclosing mechanisms in order to understand the nature and extent of sexual harassment, sexual misconduct and sexual assault experienced

by learners and staff. Northumberland Skills will ensure that staff are trained to appropriately identify and to respond to disclosures of sexual harassment and sexual assault. This is part of staff's continuous professional development.

All individuals are personally liable for their actions, which in some instances could lead to criminal or civil action in the Courts under the Protection from Harassment Act 1997, the Equality Act 2010 or other relevant legislation, such as the Crime and Disorder Act 1998.

Northumberland Skills will take swift necessary action in response to allegations made against learners or staff in line with the procedures below. Where necessary, Northumberland Skills will conduct confidential investigations into allegations of sexual misconduct. Disciplinary action will be taken if allegations of sexual harassment or sexual misconduct are upheld following a formal complaint.

Northumberland Skills will take all reasonable steps to raise awareness of the issue among staff and learners. Specific training for staff will focus on identifying signs of sexual harassment/abuse. All of our support teams will ensure that more vulnerable learners are given additional support to reduce the risk for them. These groups include:

- Learners with learning Difficulties and/or disabilities
- Care Experiences learners (young carers and those in care)
- Learners with Mental Health issues.

2. Scope of policy

This policy applies to all members of staff of Northumberland Skills and relates to sexual misconduct perpetrated by:

- a learner against a learner or a member of staff
- a member of staff against a learner or a member of staff

- a learner or staff member against a third party.

It applies to sexual misconduct that may take place outside of Northumberland Skills premises or hours, e.g., social events or on social media.

Sexual misconduct is not necessarily confined to the behaviour of senior staff towards more junior staff or staff towards learners. It can take place between persons at the same level or involve staff or learners behaving inappropriately towards more senior members of Northumberland Skills.

This policy does not cover incidents of non-sexual harassment as Northumberland Skills has a separate policy (Harassment and Bullying Policy NSP-203).

3. Definitions

For the purposes of this Policy, the following definitions apply:

Sexual misconduct is an umbrella term and can include harassment and bullying.

Harassment is unwelcome behaviour which violates an individual's dignity and/or creates an intimidating, hostile, degrading, humiliating or offensive environment.

Harassment may be physical, written, verbal, non-verbal, online or via social media. It can be intentional or unintentional.

Unlike bullying, which is covered in our main safeguarding policy, harassment is legally defined in the UK and included as a form of discrimination in the Equality Act (2010).

Sexual misconduct is any act of violence or harassment which is sexual in nature or any kind of unwanted, non-consensual sexual touching or harassment within or outside a relationship. This may include rape, sexual assault, sexual exploitation or groping. It also

covers behaviours such as grooming, coercion, the promise of a reward for sexual access and sexual demands or threats. It often arises where there is an imbalance of power in a relationship and it violates the principle that the parties involved have given willing consent to the behaviours.

Harassment, bullying and sexual misconduct might be a series of different behaviours, repeated forms of the same unwanted behaviour or a one-off incident. The following non-exhaustive list gives examples of behaviour that may also constitute harassment or bullying:

- offensive or inappropriate comments, body language, jokes, innuendos or gestures
- openly hostile, insulting, abusive or embarrassing comments or criticism persistently demeaning, ridiculing, excluding or isolating someone, threats to disclose, or disclosing, private or personal information, including photographs
- comments, notes, publications or posts on social media that are derisory, disparaging, abusive, offensive or intimidating
- knowingly addressing or referring to someone using a pronoun (for example, he or she) with which an individual does not identify.

Examples of sexual misconduct include:

- sexually explicit remarks, innuendos or banter
- sexual insults, jokes, teasing or songs
- wolf whistling, cat calling or making other offensive sexual noises
- offensive comments about someone's dress, appearance or private life, including their sexuality or gender identity
- unwanted or inappropriate physical contact including touching, pinching, groping or smacking
- unwanted requests to engage in or discuss sexual activity
- lifting or removing clothing without consent
- display or distribution of sexually explicit material.

Stalking is persistent and unwanted conduct of one or more kinds of behaviours described above. It can be physical or psychological and take place directly against a person, or by approaching a third party about a person. The more common examples of stalking are following a person home, following a person around, between or to/from campus, sending

or leaving them unwanted and repeated messages, bullying them on social media or making intrusive or unwanted visits.

Interpersonal relationships between individuals can also be abusive without a sexual element to the behaviour. They may involve bullying or coercive behaviours which are used to maintain power or control. While this might include sexual abuse and/or bullying, it can also include emotional, financial or physical abuse, threats, isolation or intimidation.

By definition, some of the behaviours set out would necessitate physical contact or for the parties to be physically proximate. Many, however, may also manifest themselves in virtual, online, social media or other remote forms of communication. The medium does not mitigate the impact or excuse the behaviour.

4. Reporting Procedure

Sexual Harassment, Sexual Misconduct and Sexual Violence are serious safeguarding issues and hence Northumberland Skills uses the established safeguarding procedures and systems to report, record and action them. All incidents/concerns of sexual nature are reported using Northumberland Skills Safeguarding portal, Tootoot.

Preventing sexual misconduct is everyone's responsibility. Northumberland Skills cannot prevent or remedy sexual misconduct unless it knows about it. If any learner or staff member believes that the actions or words of a staff member/manager, fellow employee, learner, customer, client or other individual in the organisation constitutes illegal sexual harassment, the learner/staff has a responsibility to promptly report that behaviour to the safeguarding Team (in cases involving learners) and Northumberland Skills Head of Service (in cases involving staff members/ contractors etc.).

Prompt reporting enables Northumberland Skills to stop the harassment before it becomes severe or pervasive. Anyone who witnesses or becomes aware of potential instances of sexual harassment should report such behaviour immediately.

Considering what actions to take: Any individual who believes they have been the target of sexual misconduct (harassment and/or abuse) controls what actions they can take (including no action). The individual is not obliged to make a decision immediately. It is very important that they make the decision that is right for them. They might want to speak with someone about what action they should take. Below are some of the options they may wish to consider:

- Speak with the Safeguarding, Mental health and Wellbeing Curriculum Lead.
- Report to the Police calling 101 anonymously or otherwise.
- Anonymously report the incident to Northumberland Skills.
- Take No action.

Where an anonymous allegation of sexual misconduct is made against a learner, Northumberland Skills will investigate the allegation in line with its usual procedures. All efforts will be made to encourage the reporting party to come forward so that Northumberland Skills can appropriately support them throughout the process. Where this is not possible, they will be guided to external support networks that may be able to support them.

The reporting party should be informed that it might not be possible for Northumberland Skills to update them with the progress/outcome of the investigations.

Where a member of staff has witnessed any form of sexual misconduct, they will promptly contact one of the following:

- For allegations against learners – Safeguarding staff on duty (followed by completing incident details on Tootoot).

- For allegations against staff – The Head of Service

All staff are required to report all safeguarding disclosures/incidents, including allegations of sexual abuse or misconduct (against learners) to the safeguarding team immediately. Staff should follow the safeguarding reporting procedure by reporting on Tootoot. The Safeguarding Team will take responsibility for speaking with the learner, collating necessary information, supporting the learner and any potential referral to external agencies. Please see **Appendix 1** below for details.

Please see Northumberland Skills safeguarding policy for children and adults at risk for more information. (NS – P210).

All curriculum managers are required to report all formal and informal complaints involving sexual misconduct (against staff members) immediately to Northumberland Skills Head of Service, even when the complaining individual asks to keep the complaint confidential or indicates that they do not wish to file a formal complaint. Please see **Appendix 2** for detailed procedure.

5. Responsibilities

All staff, **Senior Leadership Team and managers in both curriculum and support areas** have a duty to familiarise themselves with this policy, and to make every effort to ensure that sexual misconduct does not occur, particularly in the areas of work for which they are responsible. They should act as role models and adhere to Northumberland Skills expectations.

Staff are required to respect the age, beliefs, convictions and sexual orientation of others and not behave in ways which cause offence, or which in any way could be considered to be

sexual misconduct. Each member of staff and all learners have a responsibility to ensure colleagues, clients, learners, and visitors are treated with dignity and respect.

6. Additional resources

Resources for further guidance:

- **Keeping children safe in education 23 – GOV.UK (www.gov.uk)**
- **<https://www.gov.uk/government/publications/sexual-violence-and-sexual-harassment-between-children-in-schools-and-colleges>**
- **Working together to safeguard children – GOV.UK (www.gov.uk)**
- **Dedicated helpline for victims of abuse in schools | NSPCC**
- **Child sexual exploitation: definition and guide for practitioners – GOV.UK (www.gov.uk)**
- **Sexual violence and sexual harassment between children in schools and colleges – GOV.UK (www.gov.uk)**
- **Sexual offence Act 2003**
- **Voyeurism Act 2019**
- **Domestic Abuse Act 2021**
- **When to call the police – NSPCC**
- **Teaching about relationships, sex and health – GOV.UK (www.gov.uk)**
- **Plan your relationships, sex and health curriculum – GOV.UK (www.gov.uk)**
- **Teacher training: respectful relationships – GOV.UK (www.gov.uk)**
- **Teacher training: internet safety and harms – GOV.UK (www.gov.uk)**
- **Teacher training: being safe – GOV.UK (www.gov.uk)**

7. Related Northumberland Skills policies

- Safeguarding – Child Protection Policy NSP - 210
- Learner behaviour policy NSP - 204
- Staff Disciplinary Policy and Procedure
- Complaints and Disciplinary Procedures
- Safer Recruitment Policy
- Whistle Blowing Policy

Appendix 1

Dealing with disclosure of child on child abuse

Northumberland Skills recognises that sexual violence and sexual harassment can take place between learners in and out of their peer groups. While the focus must be a proactive education and support to minimise the risk of any such behaviour, Northumberland Skills is also committed to responding appropriately and quickly to reports of sexual violence and sexual harassment, within a framework of effective safeguarding practice.

Part 5 of KCSIE 2023 gives detailed guidance regarding the response to child-on-child sexual violence and sexual harassment, based on the DfE document Sexual Violence and Sexual Harassment between Children in Schools and Colleges.

Northumberland Skills response to any such report will be led by the DSL/ Deputy and will involve the following elements:

- Initial responses, considering the needs of both reporting and responding parties
- Record Keeping via Tootoot
- Risk Assessment
- Consideration of the various options to manage the report, including internal management, the need for early help, referral to Children's Social Care and/or referral to the Police. The MASH will be the first port of call for all incidents.
- Ongoing response – safeguarding and support.

Initial response

- Any direct disclosure by a learner about an incident of abuse should be taken very seriously and managed sensitively. Basic principles of listening sensitively, providing reassurance, not asking leading questions and not guaranteeing confidentiality should be remembered.
- All incidents should be responded to in line with Northumberland Skills Safeguarding Policy.
- Any incident should be referred to the Safeguarding Team and the Designated Safeguarding Lead (DSL). The DSL or his representative will meet with campus staff involved and there should be subsequent interviews with the learners involved if appropriate.

Investigation

- The DSL will decide if further information is required to decide on the best response. The relevant staff and provide relevant facts about the circumstances of the individuals involved which could influence the decisions of the DSL and which enable a contextual assessment to be made.
- In incidents that involve individuals not at Northumberland Skills, the DSL will decide if there is a need to contact any other agencies.
- A learner against whom an allegation of abuse has been made and where there is 'reasonable cause to suspect that another learners is suffering, or likely to suffer, significant harm' may be suspended from Northumberland Skills during the investigation in accordance with Northumberland Skills Behaviour Policy.
- When necessary, the DSL/ Deputy will take advice from Children's Social Care or Adult Care Services, via the MASH on the investigation of such allegations and will take all appropriate action to ensure the safety and welfare of all learners involved including the learner or learners accused of abuse.
- If a learner against whom an allegation of abuse has been made is required to be interviewed by the police, then the learner will be supported during the interview by an appropriate adult if under 18.

Risk Assessment and Referral

- The DSL/deputy will assess the risk presented by the incident to the individuals involved and decide whether a referral to the police or Local Area Designated Officer is required or whether to proceed using Northumberland Skills support and disciplinary system
- The DSL/ deputy should inform parents at an early stage and involve them in the process unless there is good reason to believe that involving parents would put the young person at risk of harm.
- At any point in the process, if there is a concern a young person has been harmed or is at risk of serious harm a referral should be made to Children's Social Care. Any staff member can make such a referral but should inform the DSL as soon as possible that a referral has been made.

Recording Process

- Notes should be made of all conversations and meetings to do with any incident of child on child abuse via Tootoot. Formal written records should be completed immediately or within 24 hours. Records should include date, time, place, persons involved, nature of disclosure and any relevant details. These should be emailed to the DSL immediately and uploaded on Tootoot.
- The Safeguarding and Pastoral teams will offer ongoing support in the best interests of the learners in our care and action may need to be co-ordinated where there is a

wider investigation involving Children's Social Care/Adult Care Services and/or the Police.

Appeal Process

- Where an investigation is conducted within Northumberland Skills, Northumberland Skills will provide an outcome of the investigation in writing to both the reporting and responding parties within one week of completing the process
- Where the investigation concludes that the accusation of sexual misconduct was malicious, both the reporting and responding parties are referred to support services for ongoing wellbeing support. The responding party, in such cases, will have the right to instigate complaint against the other party.
- Where the allegation of sexual misconduct is found to be substantiated, the responding party will be disciplined in line with the Learner Behaviour Policy. Both the parties (reporting and responding) have the right to appeal against the decision which will be dealt with in line with Northumberland Skills complaint procedure.
- Where the investigations are conducted by external agencies (Police, Children Social Care or Adult Care Services) the relevant agency's processes for appeal will apply.

Reports of sexual violence and sexual harassment are almost always complex, and decisions are likely to be made on a case by case basis. The needs and wishes of the reporting and responding parties should be paramount (along with protecting the individual) in every response. At all times Northumberland Skills response will be underpinned by the principle that sexual violence and sexual harassment is never acceptable and will not be tolerated.

Appendix 2

Dealing with Allegations made against a Member of Staff

The procedures apply to all Northumberland Skills employed staff, whether teaching, administrative, management or support, as well as to volunteers and contractors. The word "staff" is used for ease of description.

It is an offence under section 16 of The Sexual Offences Act 2003, which provides that it is an offence for a person aged 18 or over (e.g., teacher, youth worker) to have a sexual relationship with a child under 18 where that person is in a position of trust in respect of that child, even if the relationship is consensual. A situation where a person is in a position of trust could arise where the child is in full-time education and the person looks after children under 18 in the same establishment as the child, even if s/he does not teach the child. This reference to the Sexual Offences Act 2003 does not imply that relationships with adult learners are deemed acceptable by Northumberland Skills. Where there is any doubt, please refer to HR policies and procedures and contact them for advice.

Northumberland Skills recognises that an allegation of child abuse made against a member of staff may be made for a variety of reasons and that the facts of the allegation may or may not be true. Those dealing with allegations will maintain an open mind and that investigations are thorough and not subject to delay.

Northumberland Skills recognises that the Children Act 1989 states that the welfare of the child is the paramount concern. It is also recognised that hasty or ill-informed decisions in connection with a member of staff can irreparably damage an individual's reputation, confidence and career. Therefore, those dealing with such allegations within Northumberland Skills will do so sensitively and will act in a careful, measured way.

Receiving an allegation

This section concerns allegations against a member of staff who has:

- behaved in a way that has harmed a child, or may have harmed a child or adult at risk
- possibly committed a criminal offence against or related to a child or adult at risk; or
- behaved towards a child or children or adult at risk in a way that indicates he or she would pose a risk of harm to them.

In respect of the allegation, record information about times, dates, locations and names of potential witnesses. Where parents and carers are already aware of allegations, they should be made aware of the requirement to maintain confidentiality about any allegations made against lecturers whilst investigations are ongoing as set out in section 141F of the Education Act 2003.

The document, *Keeping children safe in education: Statutory guidance for schools and colleges: (part four: Allegations of abuse made against teachers and other staff)* will be used to handle allegations of this nature for children and adults at risk.

A member of staff who receives an allegation about another member of staff should report the allegation immediately to the Head of Service who will inform the Designated Safeguarding Lead and request that the HR team lead an investigation. If the allegation involves any of these persons that person would not be informed and the Head of Service should handle the allegation. Allegations against a teacher/lecturer/staff member who is no longer teaching and/or historical allegations of abuse should be referred to HR as there is a requirement to inform the police. HR should also be informed if a person in regulated activity has been dismissed or removed due to safeguarding concerns or would have been, had they not resigned as this is a legal duty and failure to refer when the criteria are met is

a criminal offence. HR will refer the concerned member of staff to the Disclosure and Barring Service (DBS).

The Designated Safeguarding Lead(s) shall be informed when an allegation has been received and will be told of the outcome of the investigation.

Brian Harrison August 2023