

Leigh Day

Guidance and Best Practice

**Andrew Lord
Associate Solicitor**

alord@leighday.co.uk

Headlines

“When kids abuse kids”; Panorama; 9 October 2017

“Thousands of youngsters are being sexually abused by other children, say NSPCC”; Bristol Live; 28 March 2018

“Payout over schoolboys’ sex assaults on girl, 6”; BBC news; 21 November 2018

“Call for more protection of pupil-on-pupil sex-abuse victims”; Tes; 20 February 2019

“Peer to peer abuse: Victim’s parents call for changes to guidelines”; BBC News; 8 August 2019

“Everyone’s Invited names almost 3,000 schools following claims of sexual assault, rape and harassment”; ITV; 9 June 2021

“Sexual harassment ‘has become normalised for children in schools and colleges’, damning Ofsted Review finds”; Evening Standard; 9 June 2021

“Reports of sex abuse between children double in two years”; BBC Panorama; 6 September 2021

“‘Rape culture’ teacher advice hotline launched”; Tes; 4 February 2022

Sexual Violence and Sexual Harassment Between Children in Schools and Colleges

September 2021

Outline

- Department for Education advice first published in December 2017.
- Amended in May 2018 and September 2021.
- Contains information on issues such as education of pupils as a preventative measure, highlights support for schools and colleges, and has a number of case studies which highlight potential ways in which issues can be overcome.
- It is, “advice for governing bodies, proprietors, headteachers, principals, senior leadership teams and designated safeguarding leads”.

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Sexual harassment

- Sexual comments, “jokes” or taunting
- Some physical behaviours
- Online sexual harassment

Sexual Violence

- Rape
- Assault by penetration
- Sexual assault
- Causing someone to engage in sexual activity without consent*

***Consent**

- Freedom and capacity to choose
- It may be given to one sort of sexual activity but not another
- It can be withdrawn at any time during sexual activity and each time activity occurs
- 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.

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What to look out for

- It can occur between two children of any age and sex
- It can involve groups of children
- Staff should be aware that it is more likely that girls will be the victims, and that it is more likely to be perpetrated by boys
- Children with special educational needs and disabilities are 3 x more likely to be subjected to abuse than their peers
- LGBT children, or those perceived to be LGBT, can be targeted
- The advice notes that staff can also be the focus of sexual violence and harassment.

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General points

- All staff to maintain view **‘it could happen here’**
- Zero-tolerance approach to sexual harassment and violence is advocated. Schools / colleges should not tolerate or dismiss challenging behaviours
- A whole school / college approach is important.
- Relationship Education (primary school) and Relationship and Sex Education (secondary school) and health education (for all state-funded schools) now mandatory.
- Consider factors such as age and development when considering whether sexual behaviour constitutes “harmful sexual behaviour”

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“Reports of sexual violence and sexual harassment are extremely complex to manage.”

The response to a report of sexual harassment and violence will need to be considered on a case-by case-basis. The advice provides some recommendations of steps to take.

Important considerations to include:

- **All** victims to be reassured that they are being taken seriously
- The wishes of the victim and any ongoing risks
- Giving the victim as much control as is reasonably possible
- The nature of the allegations, e.g. has a crime been committed, is it a sustained pattern
- Age and developmental stage of the children involved
- Any power imbalance between the children
- How best to support and protect the victim and the alleged perpetrator(s)

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The advice suggests there are four likely scenarios in dealing with a report of sexual violence and/or harassment, and provides practical steps for each. The four scenarios envisaged are:

1. Managing internally
2. Obtaining early help
3. Referring to children's social care
4. Reporting to the police

There are sections regarding safeguarding and supporting the victim and alleged perpetrator, which have a number of suggestions including:

1. Consider carefully the terminology used for "victim" and "alleged perpetrator"
2. Consider carefully the potential risk of abuse
3. The needs and wishes of the victim should be paramount in any response, including, where possible, allowing them to continue with their normal routine
4. Consider the proportionality of the response

Legal duties

Statutory duty to safeguard and promote the welfare of the children at school or college.

Providing education whilst safeguarding the victim

Providing education and safeguarding support to the alleged perpetrator, and any disciplinary action

Other obligations under the **Human Rights Act 1998** ?

Article 3 – right to freedom from inhuman and degrading treatment

Article 8 – the right to private and family life

Article 14 – all rights and freedoms protected and applied without discrimination

Protocol 1, Article 2 – right to an effective education

Best Practice

There are four case studies within the guidance. They deal with preventative education, an incident of sexual harassment dealt with internally, sexual assault of two girls by one boy which was referred to the authorities, and sharing intimate images taken without knowledge.

Points for schools / colleges

1. Be proactive
2. Review education on offer to children
3. Prepare a plan of action

Questions?

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