



# Sexual Safety Policy

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## Policy context

Birmingham and Solihull Mental Health NHS Foundation Trust is a signatory to the sexual safety in healthcare organisational charter and supporting principles.

Birmingham and Solihull Mental Health NHS Foundation Trust is committed to taking a zero-tolerance approach to sexual misconduct in the workplace to create a culture at work where everybody feels safe.

The new Worker Protection (Amendment of Equality Act 2010) Act 2023 creates a duty on employers to take reasonable steps to prevent sexual harassment in the workplace.

## Policy requirement (see Section 2)

Birmingham and Solihull Mental Health NHS Foundation Trust has a duty of care to protect employees from, and prevent incidents of, sexual misconduct from individuals within the physical or digital workplace. Our organisation expects all employees, contractors, secondees, agency staff, volunteers, students, interns, and casual and/or bank/temporary workers to comply with this policy.

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## **1. Introduction:**

### **1.1 Rationale:**

Birmingham and Solihull Mental Health NHS Foundation Trust (BSMHFT) is a signatory to the NHS England sexual safety in healthcare organisational charter and supporting principles. BSMHFT is committed to taking a zero-tolerance approach to sexual misconduct in the workplace to create a culture at work where everybody feels safe.

The new Worker Protection (Amendment of Equality Act 2010) Act 2023 creates a duty on employers to take reasonable steps to prevent sexual harassment in the workplace.

This policy:

- outlines our approach to tackling sexual misconduct and dealing with perpetrators
- describes what sexual misconduct is and how to report it
- adopts and signposts to processes in other BSMHFT employment policies such as dignity at work (including bullying and harassment); social media; grievance; disciplinary; and managing concerns
- provides a summary of support available to employees – see section 3.8 and Appendix 2

BSMHFT acknowledges that anyone can be a victim of sexual misconduct. However, it often occurs where there is a power imbalance and people in certain groups may be more vulnerable than others. For example, data<sup>(1)</sup> 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 characteristic.

### **1.2 Scope:**

BSMHFT has a duty of care to protect employees from, and prevent incidents of, sexual misconduct from individuals within the physical or digital workplace. Our organisation expects all employees, contractors, secondees, agency staff, volunteers, students, interns, and casual and/or bank/temporary workers to comply with this policy.

Employees who are seconded or deployed to another organisation will be supported by BSMHFT to report sexual misconduct in accordance with this policy or a similar policy provided by the host organisation.

BSMHFT 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 2.2) from any individual in the workplace.

BSMHFT expects any third-party organisation that deploys employees or representatives to work in or with BSMHFT to engage with any investigation relating to sexual misconduct and take appropriate action and/or provide appropriate support as a result of findings in relation to the employee or representative.

Sexual misconduct can take place at any time and any place. It can happen at any location, including the workplace or workplace events, for example, at learning events, while travelling with colleagues to an event or in other spaces that may be both physical and virtual including at functions and social events. Incidents might take place on BSMHFT premises or elsewhere, such as virtual or physical environments that may not always be a designated workplace but are connected to the purpose of the role, and which the colleague is attending on behalf of BSMHFT.

If employees are subject to sexual misconduct from individuals not employed by BSMHFT, this will be taken seriously. In these circumstances BSMHFT 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 BSMHFT employee (see section 3.2)
- following the receipt of allegations of sexual misconduct, take action, which may involve taking management action and/or commencing an investigation. Individuals may be asked to leave BSMHFT premises immediately and their return may not be appropriate until the outcome of any investigation is known. This process will be co-ordinated by BSMHFT's People Team.

If BSMHFT becomes aware that an employee is, or may be, perpetrating sexual misconduct, appropriate action will be taken. This may include an investigation under the organisation's disciplinary policy or Maintaining High Professional Standards Framework if the allegations are against a doctor. This includes scenarios where the victim is not an employee.

### **1.3 Principles:**

We want to create a positive workplace culture where we all take responsibility for our own behaviour and contribute to our culture. We aim to treat all employees in a fair, effective, consistent and supportive way in relation to performance/capability matters and consider these promptly and impartially.

Our values, which will guide all our actions are as follows:



It is the intention of this policy to support the delivery of these values by managers supporting our colleagues and applying the Trust values in the application of this policy. Employees will receive feedback in relation to their performance through regular 1-to-1 review meetings and appraisals, with managers utilising coaching and supportive approaches to maximise employee engagement.

Individual performance will normally be improved through the recognition of delivering quality services that deliver on BSMHFT's vision, and consistently demonstrate our values: compassion, inclusive, and committed. Everyone is encouraged to realise their full potential as this supports the development of a learning culture.

Treating employees as individuals, based on their individual needs, is our commitment. Equality is not about treating everyone the same, as this will inadvertently disadvantage some; it is about being fair, creating an 'equal playing field' that supports individual needs going through this process. Employees who may fall under the criteria, legally defined under the Equality Act, will be particularly protected by both our commitment to inclusion, diversity and equality and in line with legislative requirements. The Trust positively supports individuals with learning disabilities and/or other neurodivergent conditions and will ensure that they receive appropriate support if being managed through this policy.

## 2. The policy:

2.1 Definitions of people and roles that may be involved in a sexual misconduct report include:

Role	Definition
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 3.2 on how to report 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 (see Appendix 4)

## 2.2 **What sexual misconduct means:**

NHS England define 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.

2.3 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. Unfortunately, a sexual safety incident can happen to anyone working or attending BSMHFT and it can be perpetrated by people using or providing services. Incidents can happen to anyone, of any sex, sexual orientation or gender identity.

2.4 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

2.5 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.

2.6 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

2.7 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 potential sexual misconduct as outlined below.

### **3. The procedure - initial response to a disclosure of sexual misconduct:**

3.1 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 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. All employees need to be aware of these requirements. Please see the information below on how to handle a disclosure sensitively. Colleagues may choose to formally

report an instance of sexual misconduct without having previously disclosed it and the same steps should be followed in these cases.

3.1.1 In the event of a disclosure of sexual misconduct the following steps should be followed (see also the flowchart in Appendix 3). **The employee who receives the disclosure should:**

**Ensure the employee is safe:**

- if they are unsafe or you cannot be assured they are safe and you believe their life may be in danger, take steps to immediately call the police (if not already informed), and report internally via the Eclipse system. Depending on the scenario, and if it is suitable under the circumstances, seek advice and guidance from your manager or the People Team.

- where 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), you may contact BSMHFT's Safeguarding team ([bsmhft.safeguarding@nhs.net](mailto:bsmhft.safeguarding@nhs.net)) to request an urgent conversation about staff safeguarding; please do not add any further specific details to the email and put "URGENT: STAFF SAFEGUARDING" in the subject line. In these circumstances please also see BSMHFT's safeguarding policy entitled "Domestic Violence and Abuse Policy" which can be located on the trusts Intranet, Connect.

- if they are unsafe or you believe they are unsafe, once you have taken the steps outlined above, you must inform the relevant People Partner or an alternative colleague within the People Team at the earliest opportunity to ensure support is provided as soon as possible

- consider any action that you or another appropriate person could take to help ensure the immediate safety of the complainant. For example, if the instance occurred in a BSMHFT office, consider and discuss with the employee if an alternative work location would be appropriate

- such as an alternative office base or agree a temporary measure of full-time remote working. If the alleged perpetrator is a visitor and remains in the office, you may need to contact security (if available) and you must contact your People Partner for advice to co-ordinate escorting the alleged perpetrator from the building.

**• signpost colleagues to this policy and:**

- refer them to the support described in Appendix 2

- encourage them to consider reporting their concern as set out in section 3.2.2, if it has not already been reported



- make a note as soon as you are able to of any details of the disclosure, ensuring confidentiality is maintained. The complainant should be notified that you will make a note of the disclosure including the date and time the disclosure was made, who it was made to, what was disclosed (as much information as possible) and what immediate actions were taken

- if the complainant does not want to take the disclosure any further, you must respect their wishes. However, if you need support or advice following the disclosure you could speak to someone in confidence, such as the Freedom to Speak Up Guardian, the People Team, or your own line manager. If you would like further information on how to recognise or prioritise safeguarding concerns, please link in with the Safeguarding executive at [bsmhft.safeguarding@nhs.net](mailto:bsmhft.safeguarding@nhs.net)

- The employee who receives a disclosure must also follow the guidance in Appendix 6 (this includes instances where the first disclosure is also a formal report)

### **3.2 Reporting sexual misconduct:**

#### **3.2.1 How to report sexual misconduct:**

BSMHFT strongly encourages all employees to report any instances of sexual misconduct. Early reporting is encouraged. However, 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.

3.2.2 There are 3 routes through which sexual misconduct may be reported to commence processes under this policy (please see section 4 for further details of specific roles and their responsibilities):

<b>1)</b>	<u>People Partner</u>	a complainant or witness may contact their People Partner directly, or they may ask the person they have disclosed to, for example their line manager, to do this for them.
<b>2)</b>	<u>Eclipse</u>	BSMHFT's online reporting system (with option for anonymous reporting) – a complainant or witness may complete this form themselves, or they may ask the person they have disclosed to, or a supporter, such as a Trade Union supporter or line manager to assist them in completing it.  Reporting an incident on Eclipse will notify the relevant team manager(s) and subject matter experts. If you need help with the Eclipse form, please see contact

		details at the bottom of the Eclipse homepage. See Appendix 7 for further details.
3)	<u>Freedom To Speak Up (FTSU) Guardian</u>	a complainant or witness may seek the assistance of a FTSU Guardian in reporting an incident. All reports should follow the principles in Appendix 5. 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.

3.2.3 All reports will be taken seriously (including those that are made anonymously), regardless of the route taken. Please see section 3.4 for how sexual misconduct reports are managed.

3.2.4 Raising a report of sexual misconduct anonymously:  
Individuals are able and encouraged to report an incident anonymously through Eclipse, or via the People Partner or FTSU Guardian if they do not feel comfortable providing a full report. However, 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.

3.2.5 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.

### **3.3 Reporting sexual misconduct as a witness:**

3.3.1 If you witness what you think may be sexual misconduct in the workplace, you should consider the following actions:

- offer support to the individual targeted or affected by the behaviour you have witnessed, and/or let them know you feel the behaviour you witnessed is unacceptable, if it is safe to do so
- wherever possible, report the behaviour using the mechanisms outlined above (in section 3.2.2)

3.3.2 Reporting sexual misconduct is vital to ensure that BSMHFT can protect its employees and meet its duty to prevent sexual harassment in the workplace. Before you report the behaviour, you may wish to approach the individual who has been subjected to the sexual misconduct, so they are aware of your intention to report it. Whether they consent or not, you should name the person who has subjected the individual to the behaviour. Witnesses of sexual misconduct can report it anonymously via Eclipse, however reporting using identifiable routes is always encouraged.

### **3.4 Managing sexual misconduct reports:**

3.4.1 BSMHFT will ensure that any allegations of potential sexual misconduct are managed swiftly and in line with the appropriate organisational policies and procedures. Experiencing sexual misconduct is extremely distressing and can be life changing. It's also distressing and a serious matter for an employee to be accused of sexual misconduct. BSMHFT will not presume the accusation is either true or false prior to a fair and thorough investigation.

3.4.2 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. BSMHFT commits to treat all complaints both seriously and fairly. The trust would also encourage all colleagues involved in such cases to seek out Wellbeing Support from BSMHFT's Health and Wellbeing resources which can be found on the intranet.

3.4.3 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 may be applied to the complainant's right to be accompanied to meetings related to investigating the complaint, 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 work colleague.

### **3.5 Role of the Decision Making Group (DMG):**

3.5.1 The People Team will undertake an immediate screening of a report by establishing a DMG. The purpose of the DMG is to ensure that all relevant matters are dealt with in a fair and consistent manner. This may involve:

- the individual (or team) with whom the report has been raised
- an individual(s) with appropriate subject matter expertise
- a member of the People Team who has undertaken specialist sexual misconduct training and/or the relevant People Partner for that area
- safeguarding colleagues who will advise on safeguarding allegations concerning People in a Position of Trust (PIPOT)

- any other relevant individual deemed able to provide advice See Appendix 5/5a for more details about the role and purpose of DMGs.

### **3.5.2 Next steps following a DMG:**

Following the screening assessment, the following actions, which are not mutually exclusive, may be considered as next steps:

- further fact finding
- consideration of the alleged conduct under the terms of BSMHFT's disciplinary policy. Alleged sexual misconduct will generally be considered as serious misconduct, however in rare cases, the conduct may be considered under the 'minor misconduct' processes outlined in that. This means referring the matter to the line manager, which may involve 'informal action' under that policy. Other policies, such as dignity at work (including bullying and harassment) may also help inform next steps
- if a sexual misconduct report has been raised as a grievance, the grievance policy will be followed to consider next steps
- notifying the police and/or other relevant agencies, including the alleged perpetrator's employers if their employer is not BSMHFT
- if an investigation is commissioned through the disciplinary policy or grievance policy a case manager will be appointed who will ensure the process is carried out in line with the relevant policy and process. Please see the relevant policy for details of a case manager's role

**3.5.3** Investigations will be conducted in accordance with the relevant BSMHFT policy. 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 BSMHFT policy:

- an externally sourced investigator (with the relevant skills and experience), independent of the investigating organisation (including all employees and representatives) may be appointed
- the People Team or the commissioning manager may appoint a subject matter expert(s) to support the investigating officer and/or case manager
- 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 organisation 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

**Other support to be given during processes:**

- BSMHFT will seek to offer a trauma informed approach (see e-learning module) to individuals who are subject to behaviour that may be sexual misconduct.
- 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. It is recommended, that any adjustments should be recorded by the complainant or the alleged perpetrator, and shared with their line manager, and their trade union representative, if appropriate, and reviewed every 2 weeks.

3.5.4 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, BSMHFT 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.

**3.6 Victimisation, including when no further action is taken:**

3.6.1 As referenced in the Freedom to Speak Up: Raising Concerns Policy, BSMHFT will not tolerate any harassment or victimisation of any individual who speaks up. Individuals will not face any other form of detriment as a result of voicing concerns. There will be no negative consequences for individuals or teams who have made reports of sexual misconduct that are not upheld or taken forward, except in limited circumstances outlined in section 3.7.4.

3.6.2 BSMHFT 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. BSMHFT will uphold its duty of care to ensure colleagues are fully supported when reporting sexual misconduct, whether their complaint is upheld or not. As a reference point, the Freedom to Speak Up: Raising Concerns Policy should be read inline with this.

3.6.3 Any retaliation and victimisation of an individual raising a report or acting as a witness should be reported to a line manager and will be addressed. This may result in action being taken under the disciplinary policy.

### **3.7 Actions after an investigation:**

The outcomes will follow the relevant BSMHFT policy.

3.7.1 If a contractor or agency worker is found to be in breach of this policy and other relevant policies such as the grievance and/or disciplinary policies after an investigation, their contract may be terminated immediately.

3.7.2 If a secondee into BSMHFT is in breach of this policy, the secondment may be immediately terminated. BSMHFT 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.

3.7.3 To provide assurance the matter has been addressed appropriately, BSMHFT may share some aspects of an investigation and/or their outcomes with the complainant. This will be considered on a case-by-case basis. Any sharing of information must be compliant with relevant data protection laws and align to BSMHFT's information governance policy.

3.7.4 BSMHFT employees who raise a report of sexual misconduct in good faith (whether founded or not) will always be supported. 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.

### **3.8 Support:**

3.8.1 Managing and supporting disclosures and reports of sexual misconduct is challenging for all parties involved. BSMHFT 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 (see Appendix 2).

3.8.2 Incidents of sexual misconduct can have long-term impacts 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 any investigation is ongoing. The complainant should have a conversation with their line manager (or nominated person, which may include an occupational health professional) 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.

3.8.3 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 recorded and reviewed every 2 weeks, documented and shared with the relevant parties such as the individual and/or their line manager and their trade union representative.

3.8.4 If sickness absence is caused by sexual misconduct at work, and where occupational sick pay reduces to half or nil pay, colleagues may be entitled to receive Injury Allowance. This tops up your income (including certain welfare benefits) to 85% of your usual pay during the absence for up to 12 months. Section 22 of the NHS Terms and Conditions Handbook provides more information about Injury Allowance. Further support can be obtained from the People Team.

3.8.5 It is recognised that when receiving a disclosure or complaint of sexual misconduct, it may be distressing or triggering for the individual who receives it. If this is the case, contact your line manager, or another senior leader/manager in the service area.

### **3.9 Reporting to statutory regulators:**

3.9.1 BSMHFT 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.

3.9.2 The designated staff for ensuring that BSMHFT makes an appropriate referral will be the People Partners. They may take advice from a range of individuals including the most senior professional of the profession within BSMHFT, for example, Chief Nursing Officer and/or Medical Director and/or Chief AHP and or/ Chief Psychological Professions Officer before making a formal referral.

3.9.3 When making a referral, the People Team representative will do this in accordance with BSMHFT's professional registration policy and in conjunction with the most senior professional of the profession.

### **3.10 Police involvement:**

3.10.1 A disclosure of sexual misconduct may allege a criminal act. In such a case, BSMHFT's People 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.

3.10.2 The People Team routinely works 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. BSMHFT will ensure that matters are referred to the wider authorities such as the relevant Local Authority Designated Officer and/or the relevant local authority Safeguarding team where appropriate.

3.10.3 Where an internal investigation is taking place, BSMHFT's People Team will consult with the police at agreed intervals about concurrent investigation processes to ensure the criminal investigation/process is not prejudiced.

3.10.4 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.

### **3.11 Confidentiality:**

3.11.1 Confidentiality covered by this policy 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.

3.11.2 BSMHFT does not use confidentiality or non-disclosure agreements to prevent reporting of sexual misconduct or whistleblowing.

3.11.3 Data will be collated centrally by the People Team and only shared on a need-to-know basis to inform the investigations and preventative actions. Some anonymised data will be shared with the Transforming our Culture & Staff Experience Sub Committee to facilitate oversight of this policy such as the number of cases, outcomes and overall summary data as standard assurance. This will not include personally identifiable data and will provide assurance to the Trust's Board that allegations relating to sexual misconduct are being managed accordingly.

3.11.4 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, People Team directly involved, and where represented, trade union representatives. This does not mean that support should not or could not be sought, acknowledging



that talking about the event may help some people. However, this must be done adhering to confidentiality obligations.

3.11.5 Witnesses will be identified as early as possible and be supported on a trauma informed basis by BSMHFT's People Team to provide a confidential statement as part of any internal process being conducted.

3.11.6 Witnesses should not be approached by anyone other than the People Team colleagues if they are required to provide formal evidence or a witness statement to the police and colleagues will be provided with support from a suitably trained advocate as part of the witness statement making process.

#### **4. BSMHFT roles and responsibilities:**

##### **4.1 Organisational responsibilities:**

BSMHFT is committed to improving organisational culture at every level to prevent workplace misconduct. We will do this by creating a culture that encourages and supports colleagues to openly discuss and report sexual misconduct without fear of retaliation or victimisation and protect employees from sexual misconduct and take steps to prevent it.

To support cultural development BSMHFT will take the following actions:

- ensure the Transforming our Culture & Staff Experience Sub Committee regularly reviews data relating to sexual misconduct and that lessons are learnt and changes in practice are made to improve sexual safety in the workplace
- ensure all colleagues are aware of issues relating to sexual misconduct, the sexual misconduct policy and how to deal with disclosures appropriately
- actively work to prevent sexual misconduct in the workplace
- encourage managers to ask about an individual employee's working relationships and environment within their line manager/employee relationship 1:1 meetings
- a member of BSMHFT's Board has responsibility for sexual safety. At the time of publication this is the Executive Director of Strategy, People and Partnerships and Deputy Chief Executive.
- appoint a Domestic Abuse and Sexual Violence Lead in BSMHFT
- be responsible for creating a culture where employees feel safe to work and raise concerns and feel listened to

To support our commitment to a safe workplace and culture all colleagues should:

- challenge inappropriate behaviour, if appropriate and it can be done 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
- familiarise themselves with and adhere to the principles in the Sexual Safety Charter

Line managers will:

- provide appropriate support and/or signpost support to those who disclose sexual misconduct
- report an incident to colleagues in the People Team where relevant and in line with this policy
- be proactive in putting into place any reasonable adjustments including a Workplace Safety Plan if necessary
- 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
- 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
- be a role model for promoting equal and professional behaviours in the workplace
- be aware there may be a need to report an instance of sexual misconduct, bearing in mind confidentiality and the wishes of the complainant should it need to be discussed anonymously with People Partner and/or Safeguarding teams

The People Team will:

- provide specialist advice at all stages of a complaint being raised for 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
- maintain confidentiality as far as possible unless there is a safeguarding concern that needs to be reported
- signpost colleagues to the appropriate support
- manage all information in line with the requirements of the records management policy

Freedom to Speak Up Guardians/Champions 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

Trade Unions will:

- signpost to this policy, explain the procedures for reporting and the potential routes and outcomes, and assist with the reporting process where appropriate
- explain the options for support both internally and externally during and after the process
- provide support to their members through informal and formal processes

Individuals in a leadership position (often noted as 'position of power') should:

- be aware of the potential power imbalance that can increase the vulnerability of some employees
- never take advantage of their position to leverage staff for sexual favours
- ensure no colleague is subjected to inappropriate behaviours including jokes and banter
- be aware of the vulnerabilities of women and minority groups who may be at greater risk of sexual harassment. This includes individuals with protected characteristics such as but not limited to gender, race, sexuality, trans status, religion and disability which may increase the risk of experiencing sexual harassment

Transforming our Culture & Staff Experience Sub Committee members will:

- conduct regular reviews of internal data and ensure appropriate actions are taken in areas of concern
- influence organisational culture and set organisational priorities relating to sexual safety
- support the development of the leadership community to support the operation of this policy

Safeguarding leads will: (contact details: [bsmhft.safeguarding@nhs.net](mailto:bsmhft.safeguarding@nhs.net))

- consider and advise on whether a concern about sexual misconduct requires a statutory safeguarding response.

## 5. Development and Consultation process consisting of:

Consultation summary	
Date policy issued for consultation	20/03/2025
Number of versions produced for consultation	5
Committees / meetings where policy formally discussed	Date(s)
Sexual Safety Working Group	14/10/2024 – 11/11/2024 – 09/12/2024 – 10/02/2025
JOSC	05/03/2025

PDMG		13/08/2025	
Where received	Summary of feedback	Actions / Response	

## 6. Reference documents

- [Domestic Violence and Abuse Policy](#)
- [Freedom to Speak Up: Raising Concerns policy](#)
- [Maintaining High Professional Standards Framework](#)
- [Managing Safeguarding Allegations Concerning People in a Position of Trust Policy](#)
- [NHS Sexual Safety Charter](#)
- [NHS Terms and Conditions handbook](#)
- [Protection from Harassment Act 1997](#)
- [The Equality Act 2010](#)
- [The Sexual Offences Act 2003](#)
- [Working Protection \(Amendment of Equality Act 2010\) Act 2023](#)

## 7. Bibliography:

- [Dignity at Work Policy](#)
- [Disciplinary Policy](#)
- [Safeguarding Adults Policy](#)
- [Safeguarding Children and Young People Policy](#)

## 8. Glossary:

None

## 9. Audit and assurance:

Element to be monitored	Lead	Tool	Frequency	Reporting Committee
Track the number of sexual abuse and sexual harassment incidents submitted. Evaluate by outcomes to identify trends and learning.	People Team	Eclipse reporting system	Quarterly	Transforming our Culture & Staff Experience Sub Committee
Review of reporting process to ensure best fit for practice.	People Team	Eclipse reporting system	Annual	Transforming our Culture & Staff Experience Sub Committee
As it's a new policy, regular monitoring of implementation and usage across BSMHFT.	People Team	Reporting data / workforce feedback	Monthly	(Escalation only) - Transforming our Culture & Staff Experience Sub Committee

## 10 Appendices - Appendix 1

### Equality Analysis Screening Form

A word version of this document can be found on the HR support pages on Connect

<http://connect/corporate/humanresources/managementsupport/Pages/default.aspx>

<b>Title of Policy</b>	<b>Sexual Safety Policy</b>		
<b>Person Completing this policy</b>	<b>David Barros Howe</b>	<b>Role or title</b>	<b>People Partner (Interim)</b>
<b>Division</b>	<b>Corporate</b>	<b>Service Area</b>	<b>Human Resources</b>
<b>Date Started</b>	<b>October 2024</b>	<b>Date completed</b>	<b>July 2025</b>
<b>Main purpose and aims of the policy and how it fits in with the wider strategic aims and objectives of the organisation.</b>			
<p>Birmingham and Solihull Mental Health NHS Foundation Trust is a signatory to the sexual safety in healthcare organisational charter and supporting principles. Birmingham and Solihull Mental Health NHS Foundation Trust is committed to taking a zero-tolerance approach to sexual misconduct in the workplace to create a culture at work where everybody feels safe.</p> <p>The new Worker Protection (Amendment of Equality Act 2010) Act 2023 creates a duty on employers to take reasonable steps to prevent sexual harassment in the workplace.</p> <p>Results from the 2023 staff survey also showed that employees at BSMHFT are more likely to be a target of unwanted behaviour when compared to the national average. To the question, “In the last 12 months, how many times have you been the target of unwanted behaviour of a sexual nature in the workforce? From patients/service users, their relatives or other members of the public” – 14.34% at BSMHFT said they have, which is 5.04% above the national average (9.33%).</p> <p>To the question “In the last 12 months, how many times have you been the target of unwanted behaviour of a sexual nature in the workforce? From staff / colleagues” – 5.29% at BSMHFT confirmed they had experienced this unwanted behaviour, compared to 3.01% as a national average.</p>			
<b>Who will benefit from the policy?</b>			
BSMHFT employees, service users, bank & agency workers, contractors, placement students, visitors, and volunteers.			
<b>Does the policy affect service users, employees or the wider community?</b>			

**Add any data you have on the groups affected split by Protected characteristic in the boxes below. Highlight how you have used the data to reduce any noted inequalities going forward**

This policy is to prevent incidents of sexual misconduct from individuals within the physical or digital workplace. Our organisation expects all employees, bank & agency workers, contractors, placement students, visitors and volunteers to comply with this policy. Therefore, it affects all service users and those that come into BSMHFT in a positive way.

**Does the policy significantly affect service delivery, business processes or policy?**

**How will these reduce inequality?**

No. It does not have an impact on service delivery.

**Does it involve a significant commitment of resources?**

**How will these reduce inequality?**

No

**Does the policy relate to an area where there are known inequalities? (e.g. seclusion, accessibility, recruitment & progression)**

No

**Impacts on different Personal Protected Characteristics – Helpful Questions:**

Does this policy promote equality of opportunity?  
Eliminate discrimination?  
Eliminate harassment?  
Eliminate victimisation?

Promote good community relations?  
Promote positive attitudes towards disabled people?  
Consider more favourable treatment of disabled people?  
Promote involvement and consultation?  
Protect and promote human rights?

**Please click in the relevant impact box and include relevant data**

Personal Protected Characteristic	No/Minimum Impact	Negative Impact	Positive Impact	Please list details or evidence of why there might be a positive, negative or no impact on protected characteristics.
Age	No impact			It is anticipated that employees will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their age.

<p>Including children and people over 65</p> <p>Is it easy for someone of any age to find out about your service or access your policy?</p> <p>Are you able to justify the legal or lawful reasons when your service excludes certain age groups</p>				
<b>Disability</b>	No impact			It is anticipated that employees will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their disability status.
<p>Including those with physical or sensory impairments, those with learning disabilities and those with mental health issues</p> <p>Do you currently monitor who has a disability so that you know how well your service is being used by people with a disability?</p> <p>Are you making reasonable adjustment to meet the needs of the staff, service users, carers and families?</p>				
<b>Gender</b>			Yes	The makeup of the workforce is female majority, 71% are female and 29% identify as male. The 2023 staff survey results also highlight that females are more likely to experience unwanted behaviour than males, from both service users and BSMHFT colleagues.
<p>This can include male and female or someone who has completed the gender reassignment process from one sex to another</p> <p>Do you have flexible working arrangements for either sex?</p> <p>Is it easier for either men or women to access your policy?</p>				
<b>Marriage or Civil Partnerships</b>	No impact			It is anticipated that employees will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their marriage or civil partnership status.
<p>People who are in a Civil Partnerships must be treated equally to married couples on a wide range of legal matters</p> <p>Are the documents and information provided for your service reflecting the appropriate terminology for marriage and civil partnerships?</p>				
<b>Pregnancy or Maternity</b>	No impact			It is anticipated that employees will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their pregnancy or maternity status.

<p>This includes women having a baby and women just after they have had a baby</p> <p>Does your service accommodate the needs of expectant and post natal mothers both as staff and service users?</p> <p>Can your service treat staff and patients with dignity and respect relation in to pregnancy and maternity?</p>				
<b>Race or Ethnicity</b>	No impact			It is anticipated that employees will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their race or ethnicity.
<p>Including Gypsy or Roma people, Irish people, those of mixed heritage, asylum seekers and refugees</p> <p>What training does staff have to respond to the cultural needs of different ethnic groups?</p> <p>What arrangements are in place to communicate with people who do not have English as a first language?</p>				
<b>Religion or Belief</b>	No impact			It is anticipated that employees will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their religion or belief.
<p>Including humanists and non-believers</p> <p>Is there easy access to a prayer or quiet room to your service delivery area?</p> <p>When organising events – Do you take necessary steps to make sure that spiritual requirements are met?</p>				
<b>Sexual Orientation</b>	No impact			It is anticipated that employees will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their sexual orientation.
<p>Including gay men, lesbians and bisexual people</p> <p>Does your service use visual images that could be people from any background or are the images mainly heterosexual couples?</p> <p>Does staff in your workplace feel comfortable about being 'out' or would office culture make them feel this might not be a good idea?</p>				
<b>Transgender or Gender Reassignment</b>	No impact			It is anticipated that employees will not have a negative impact in terms of discrimination as this policy ensures that all employees should be treated in a fair, reasonable and consistent manner irrespective of their transgender or gender reassignment.



<p>This will include people who are in the process of or in a care pathway changing from one gender to another</p> <p>Have you considered the possible needs of transgender staff and service users in the development of your policy or service?</p>				
Human Rights			<p>This policy is written to promote equality and remove any discrimination to ensure that everyone can fulfil their full potential within a Trust that is inclusive, compassionate, and committed. This is keeping in line with our Trust values, the NHS People's Plan commitment to equality, diversity and inclusion and reflects the provisions of the Equality Act 2010.</p> <p>This policy applies to <b>all</b>, including applicants applying for a job, staff including agency, bank and volunteers, services users and carers, visitors, stakeholders, an any other third-party organisations who work in partnership with the Trust.</p>	
<p>Affecting someone's right to Life, Dignity and Respect?</p> <p>Caring for other people or protecting them from danger?</p> <p>The detention of an individual inadvertently or placing someone in a humiliating situation or position?</p>				
<p><b>If a negative or disproportionate impact has been identified in any of the key areas would this difference be illegal / unlawful? I.e. Would it be discriminatory under anti-discrimination legislation. (The Equality Act 2010, Human Rights Act 1998)</b></p>				
What do you consider the level of negative impact to be?	High Impact	Medium Impact	Low Impact	No Impact
				No impact
<p>If the impact could be discriminatory in law, please contact the <b>Equality and Diversity Lead</b> immediately to determine the next course of action. If the negative impact is high a Full Equality Analysis will be required.</p> <p>If you are unsure how to answer the above questions, or if you have assessed the impact as medium, please seek further guidance from the <b>Equality and Diversity Lead</b> before proceeding.</p>				

If the policy does not have a negative impact or the impact is considered low, reasonable or justifiable, then please complete the rest of the form below with any required redial actions, and forward to the <b>Equality and Diversity Lead</b> .
<b>Action Planning:</b>
How could you minimise or remove any negative impact identified even if this is of low significance?
There is no negative impact from the introduction of this policy. It addresses the safety of our workforce and ensures practices are in place should a sexual misconduct incident take place.
How will any impact or planned actions be monitored and reviewed?
Feedback from reports of concerns, escalating concerns through governance routes. Regular audits and policy updates, communication to managers through Operational Meetings. Future staff survey results should also show an impact on the impact of introducing this policy and the sexual safety charter.
How will you promote equal opportunity and advance equality by sharing good practice to have a positive impact on other people as a result of their personal protected characteristic.
Communications plan and trust wide promotion in ways accessible to ALL staff without the reliance upon electronic communications
Please save and keep one copy and then send a copy with a copy of the policy to the Senior Equality and Diversity Lead at <a href="mailto:bsmhft.edi.queries@nhs.net">bsmhft.edi.queries@nhs.net</a> . The results will then be published on the Trust's website. Please ensure that any resulting actions are incorporated into Divisional or Service planning and monitored on a regular basis

## Appendix 2 – Support

### Internal support and partner organisations

**The Employee Assistance Programme (EAP)** is a free, confidential service, created to help you access guidance and support when you need it. Further details can be found on the BSMHFT's Intranet, Connect.

**Trade Union representatives** Provide advice and support to their members when they have issues at work. Contact details for recognised Unions can be found on Connect.

**Freedom to Speak up Guardians (FTSU)** You can speak up to FTSU Guardians about anything that gets in the way of patient care or affects your working life. The trust also has a team of FTSU Champions who provide localised support and can be found via the trusts intranet.

**Sexual Violence Lead** BSMHFT has a specialist role and can be reached via the Safeguarding team on 0121 301 1100 or email [bsmhft.safeguarding.nhs.net](mailto:bsmhft.safeguarding.nhs.net)

**Independent Domestic Violence Advocate** If you are a female and experiencing domestic abuse, you can contact BSMHFT's Independent Domestic Violence Advocate (IDVA) on 07936 338155 or email [MH.IDVA@bswaid.org](mailto:MH.IDVA@bswaid.org)

**Mankind and Respect** If you are a male and experiencing domestic abuse, you can contact Mankind at [Mankind.org.uk](http://Mankind.org.uk) or Respect at [mensadvice.org.uk](http://mensadvice.org.uk)

### External support

**ACAS:** helpline for anyone experiencing workplace related issues including sexual harassment.

**Rights of Women:** have free legal advice lines for women who have experienced domestic abuse, sexual violence and sexual harassment at work. Surviving in scrubs: provide support, share survivor stories and campaign to end sexism, harassment, and sexual assault in the healthcare workforce.

**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.

**Health & Care Professions Council:** Sexual safety hub provides help and guidance about making a report to that organisation.

**Protect:** Free, confidential whistleblowing advice.

**Equality Advisory & Support Service:** Helpline to advise on issues related to equality and human rights.

**Citizens Advice:** provide information about your legal rights in the workplace if you are experiencing sexual harassment.

**Samaritans:** support for anyone who's struggling to cope, and who needs someone to listen without judgement or pressure

**Getting help for domestic violence and abuse:** NHS.uk provides practical advice and help to recognise the signs and where to get help. Supporting a survivor of sexual violence: advice from Rape Crisis about how to support a survivor of sexual violence.

**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.

**Rape Crisis England and Wales:** 24/7 helpline that can provide immediate support if you have experienced sexual misconduct.

**Sexual assault referral centres (SARCs):** offer medical, practical and emotional support to anyone who has been raped, sexually assaulted or abused. SARCs have specially trained doctors, nurses and support workers. You can find more details at West Midlands Horizon SARC [HORIZON SARC – Sexual Assault Referral Centre](#)

**Galop:** support LGBT+ people who have experienced abuse and violence. Local support can also be found at Birmingham LGBT [Birmingham LGBT - Supporting Birmingham's LGBTQ+ Community](#)

**The Survivors Trust:** provide survivor-led resources and practical tools to help people affected by sexual violence and abuse, and their supporters navigate their journey of healing.

**SurvivorsUK:** provide support to male and non-binary survivors of sexual violence, providing counselling, practical help and community on your healing journey.

**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.

## **NHS Employers**

NHS Terms and Conditions Handbook section 32 Dignity at Work

## **Equality and Human Rights Commission (EHRC) guidance**

Preventing sexual harassment at work: a guide for employers Employer 8-step guide:

Preventing sexual harassment at work Guidance on managing sexual misconduct

Advice about sexual harassment at work (ACAS)

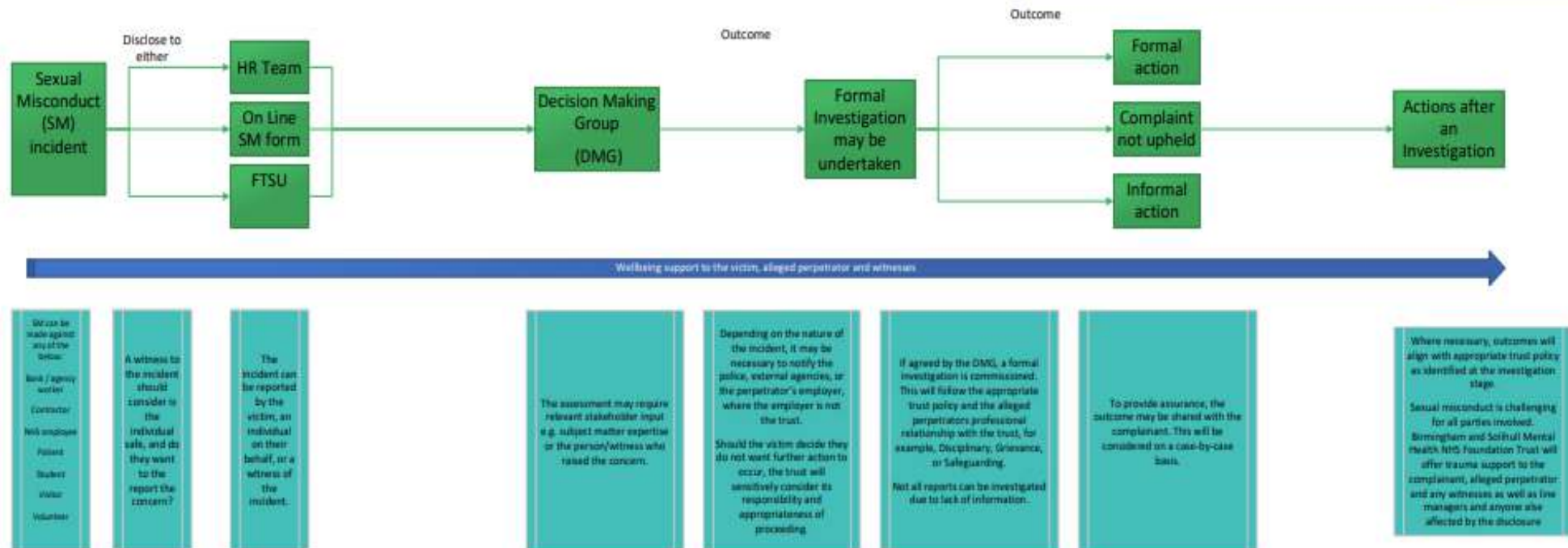
Managing discrimination from patients and their guardians and relatives (BMA)

Managing concerns (Nursing and Midwifery Council)

Practitioner Performance Advice (PPA) (NHS Resolution)

## Appendix 3 – Flow chart

### BSMHFT Sexual Safety Policy – pathway flowchart



## **Appendix 4 – Subject matter experts**

Subject matter experts (SMEs) may be asked to support the assessment and investigation of allegations of sexual misconduct. BSMHFT maintains a panel of internal SMEs that can be accessed by those with defined roles in the screening and investigation process.

Complaints and cases will differ in their detail, so a range of expertise and experience will be required. Knowledge and expertise may include some of the areas covered below, that can be accessed to provide specialist advice in sexual misconduct cases:

### **Knowledge**

- trauma informed interviewing/investigation techniques
- research led/informed case reporting
- risk management
- understanding of issues impacting particularly vulnerable groups

### **Skills**

- ability to identify types of sexual misconduct
- ability to understand impacts on vulnerable groups
- ability to undertake extensive personal interviews to elicit better information and to reduce the potential for retraumatising
- ability to overcome barriers to disclosure while supporting employee wellbeing

### **Experience of**

- undertaking or advising on trauma informed employment led investigations
- supporting individuals and/or teams on a trauma-informed basis
- equality, diversity and inclusion implications within sexual misconduct investigations/cases and understanding vulnerabilities of particular groups
- using subject matter expertise to aid investigations and improve decision making.

## **Appendix 5 – Decision Making Group (DMG)**

A DMG will be convened for all cases of sexual misconduct. A DMG is a process/procedure used when incidents of misconduct occur which need to be managed in accordance with the Trust Disciplinary Policy, Resolution of Grievance and Disputes Policy and Procedure, Dignity at Work Policy and Sexual Safety Policy. The purpose is to determine the next steps, following a review of the initial fact find to ensure that the decision reached is fair to people that have been involved in an incident and eliminating inconsistencies and bias. More details on the operational use of DMGs at the trust can be located in the Disciplinary Policy Toolkit.

The DMG will consider:

- the issue raised including any potential harm experienced by the individual raising the concern or complaint (if known)
- the requirement for any third-party referrals who may need to provide expertise, advice and support, for example, safeguarding and other subject matter experts (see Appendix 4 for more details on SMEs)
- the immediate support available for the individual who has been subject to the behaviour, the complainant (and/or individual raising the concern) and the alleged perpetrator
- whether a risk assessment is required to consider any potential further harm from the alleged perpetrator to the individual or others
- whether the support required needs to be sourced from outside BSMHFT
- which policy and/or procedure(s) apply to help manage the concern or complaint within the immediately defined next steps
- whether there is any other intelligence about the alleged perpetrator that may be relevant
- ensure a record is kept of the screening assessment (anonymously where appropriate) and ensure the case management approach is set out clearly
- agreement of any communications that may be necessary to protect individuals or others involved, or to notify other parties who may need to be aware
- whether the police need to be contacted

### **Appendix 5a – Decision Making Group checklist**

#### **Sexual Misconduct Screening Checklist**

- has immediate support been offered to the complainant/alleged perpetrator/witness(es)?
- 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:
  - o how was the complaint reported
  - o names of all individuals involved, employment details etc
  - o date of incident
  - o location (if applicable)
  - o have statements been received/requested from the complainant/witnesses/alleged perpetrator, where appropriate?
  - o has the complainant identified a preferred outcome?
  - o does the complainant/alleged perpetrator work for BSMHFT? If not, do we know which organisation they work for?
  - o if an internal employee, are there any similar live cases on file relating to the alleged perpetrator?
  - o are there any aggravating factors, such as the abuse of power over a more junior colleague that need to be taken into account?
- identify those who 'need to know', for example, relevant line managers, People Team colleagues, SMEs, external employer (in the scenario where one of the parties works for a different organisation). If the allegation is against a doctor a representative of the Medical Workforce team should be consulted.
- have the relevant parties' line managers been notified?
- is there a requirement to consult an SME, for example, safeguarding, legal etc? If so, record their advice
- following advice, is there a requirement to refer on to a third-party for their input
- identify who will undertake a risk assessment to ensure no further harm from alleged perpetrator
- if further facts are required, consider requesting a pre-investigation to gather this information
- identify the policy that the case will be managed under, for example, grievance, disciplinary or managing concerns if known at this time
- identify whether informal action will be pursued or if a formal investigation will be undertaken, if known at this time
- where it is agreed that a formal investigation is required (agree the relevant People policy to be used):
  - identify the case/ commissioning manager, investigating officer and appropriately trained People Team representative support for both, and agree who will be the lead People Partner and senior manager responsible for the case



- the arrangements for where both parties will work if co-located/same team (including consideration of suspension or temporary alternative working arrangements of the alleged perpetrator if required), line management arrangements etc
- terms of reference to be completed
- where it is agreed that a police or local authority LADO referral is required, identify when it is appropriate to commence an internal investigation
- agree who will be the key point of contact for the complainant and alleged perpetrator and advise them of this - keep a record of the date and time of the DMG, the screening outcomes and names of all the DMG's members, including SMEs who have been consulted including noting their relevant advice

## Appendix 6 – How to respond to a disclosure

It is important that everyone working in the NHS 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.

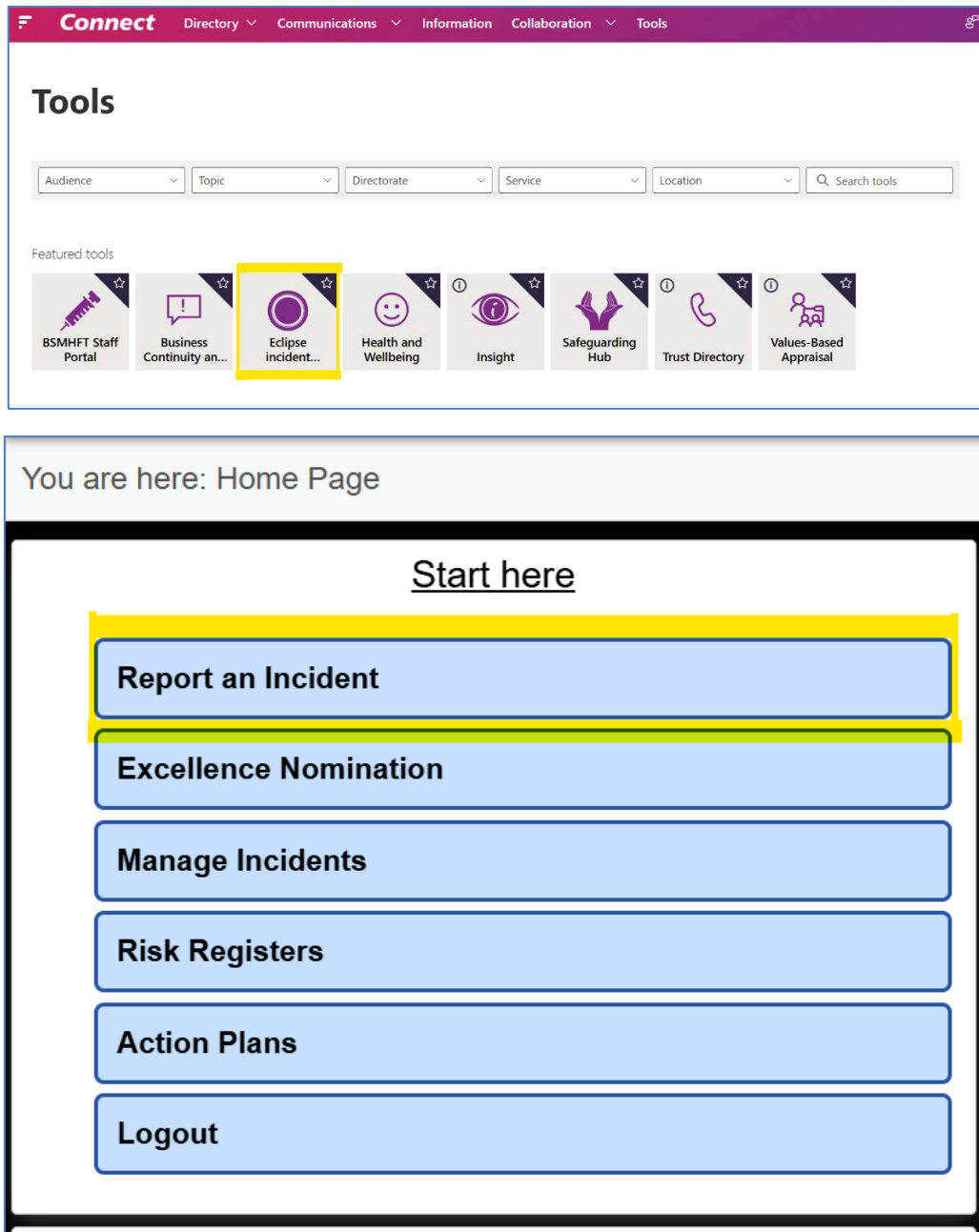
It is crucial to handle the conversation respectfully and supportively. Your role is to listen to the person sharing their experience and agree on the next steps to take. Your role is not to provide counselling, clinical advice or offer retribution against the perpetrator.

You should:

- ensure they are safe
  - actively listen (without having any distractions such as your phone)
  - believe and validate them
  - respect confidentiality but ensure they understand you may need to share information or example if a safeguarding concern is outlined
  - 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
  - be judgemental or criticise their choices
  - express criticism or disbelief
  - look disinterested (think about your body language)
  - tell them what to do
  - 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
    - ask why they did not run away or fight back
    - play down or minimise their experience and the significance of what they are sharing.

## Appendix 7 – Eclipse - online reporting system

The Eclipse system can be accessed via BSMHFT's Connect intranet. Below are the icons and images that you should visit when planning to report an incident.



## Incident Form

All Incidents must be reported within 1 working day. Please refer to the [Incident Reporting & Management Policy](#) for further information about incident reporting

**Need help with the Eclipse form?**  
**Contact us via MS Teams: Khaldi Mahmood or call: 07812 621126**

What happened and when

Incident Date

Incident Time (24 hr clock)

--:--

(hh:mm)

Please describe briefly what happened - DO NOT USE ANY PATIENT OR STAFF IDENTIFIABLE INFORMATION in this section

Cause Search

Clear Details

What happened and when

Incident Date

Incident Time (24 hr clock)

--:--

(hh:mm)

Please describe briefly what happened - DO NOT USE ANY PATIENT OR STAFF IDENTIFIABLE INFORMATION in this section

Cause Search

Clear Details

Type of Incident

Assaults, Violence & Harassment

?

Cause Group

Sexual Harassment

?

Cause

?

Referred to