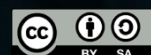


# Toolkit for responding to disclosures of sexual harm

Policy Toolkit



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## Introduction

This policy toolkit has been developed for the PPTA by RespectEd Aotearoa, a charitable trust that works with schools, organisations, and community groups to support positive cultures, build respectful relationships, and prevent sexual harm. It is intended to provide information and resources for schools to develop their own policy for sexual harm.

The toolkit is divided into sections that outline what should, or could, be in the policy. Each section usually has one or two examples of a policy statement, which can be used to guide discussions, but should not be seen as a template. Further information pertaining to most sections is found in the appendices.

### Language

The language of this policy toolkit describes sexual harm rather than sexual harassment. This term has been chosen as a broad inclusive term that covers sexual harassment and sexual abuse or violence. The policy framework also includes harm online and in digital communication. Some schools may prefer to use the term sexual harassment and include a broad definition.

The language used for those who have engaged in the harmful behaviour and for those who have been harmed is for each school to decide. Often the person who has been subjected to harm is called the victim/survivor, and the person who has engaged in the harmful behaviour is called the perpetrator. In order to focus on the behaviour rather than the person, it is suggested that terms such as “the person who has harmed” or “the person who engaged in harmful behaviour” are used rather than perpetrator, and the terms such as “person who was harmed” or “person who was subjected to harm” rather than victim.

### Adult/Employee focus

The focus of this policy toolkit is on sexual harm against people who are employees of the school, whether full-time, part-time, permanent, or casual. These are referred to as staff or staff members. This harm may be perpetrated by other staff, other adults, including contractors, whānau and visitors, and by students within the school environment, therefore these people are all subject to this policy.

Some schools may prefer to have a policy that covers sexual harm against everyone within the school environment, including students, whānau, board members, contractors, visitors and volunteers. If so, the policy will need to be extended to include these groups. It is common for a school to have one sexual harm or sexual harassment policy that covers all parties within the school.

# Toolkit for Sexual Harm Policies in Schools

## Ownership of Policy

Most policies start with a table or statement with information about the ownership of the policy, when it was last reviewed and updated, and when the next review is due.

A statement about how the policy will be shared and accessed can also be added, see Example 1.

### Example 1

Owner(s)		Contact	
Last review		Next review	
Last updated			
<p>[Name of School] will ensure that all staff have access to this policy by providing it at induction, having it easily accessible in print form, stored on, a shared document server and by promoting the policy on a regular basis. All other people in the school community, including the board of trustees, students, contractors, people providing services, visitors and whānau are also subject to this policy.</p> <p>They will be made aware of the policy through information provided on the school website and on the school campus, and through newsletters and other means of information sharing.</p>			

## About the Policy

This section introduces – what it is, what it sets out to achieve, e.g., creating a safe environment and recognises that sexual harm is an important issue that affects all staff. For an example of an introduction see Example 2. If the policy is applied to others in the school community, then the wording of the policy will reflect that, see Example 3.

### Example 2

*This policy sets out [Name of School]’s commitment to provide, and the obligation of all involved with the school to contribute to, a positive and safe environment where all people are respected, valued and supported in line with our school values [could hyperlink to values]. Sexual harm in any form is unacceptable and at odds with our aspiration to create a safe, respectful, and inclusive school and workplace. [Name of School] understands this is a critical health and safety issue which impacts directly on the health and wellbeing of impacted staff and may have wider implications for the school community in terms of loss of good staff, impact on other staff, reputation of the school and relationship with the community it serves, and risks to others in the school community.*

### Example 3

*This policy sets out [Name of School]'s commitment to provide, and the obligation of all involved with the school to contribute to, a positive and safe environment where all people are respected, valued and supported in line with our school values [could hyperlink to values]. Sexual harm in any form is unacceptable and at odds with our aspiration to create a safe, respectful, and inclusive school and workplace. [Name of School] understands this is a critical health and safety issue which impacts directly on the health and wellbeing of those impacted and may have wider implications in terms of impact on or risks to others in the school community, and reputation of the school and relationship with the community it serves.*

### Key Definitions

The policy needs to define sexual harm especially as there are a range of terms to describe this problem, including sexual violence, sexual harassment, sexual assault, indecent assault, rape, and sexual violation. Some schools may prefer to use the term sexual harassment, which is the term commonly used for sexual harm within the workplace; however, the term sexual harm is considered a best-practice broader term.

A discussion of the definition of sexual harm and consent provided in Appendix A and examples of harmful sexual behaviour are provided in Appendix B. There are a number of myths and misunderstandings about sexual harm, which can be referred to in the policy, or included in an appendix. Schools may choose not to include these and instead to ensure these are addressed in education about the policy.

For example, of some of the common myths or misunderstandings see Appendix "C" (page 22). A summary of Legal definitions is provided in Appendix "D" (page 23).

An example of a definition is provided in Example 4 and a statement that clarifies some of the common misunderstandings is outlined in Example 5.

### Example 4

*Sexual harm refers to any kind of unwelcome or offensive sexual behaviour that negatively impacts a person within the school environment or damages the reputation of the school or relationship between the school and the community. There is either a lack of consent for the behaviour, or it is performed in circumstances defined by law whereby a person cannot give consent, such as force, coercion, implied or explicit promises of preferential treatment or implied or explicit threats of detrimental treatment. Sexual harm is a broad term that covers a continuum of harmful sexual behaviours, including verbal, visual, physical, and online sexualised behaviours, and encompasses a range of other terms used such as sexual harassment, sexual assault, indecent assault, sexual violence, rape, and sexual violation. For examples of sexual harm and sexual harassment see Appendix xx (page xx) and for legal definitions see Appendix xx (page xx).*



### Example 5

*This policy recognises that sexual harm can happen to, or be done by, people of any gender, age, size, religion, sexuality, appearance, or ethnicity. The harm may be unintentional or be done out of ignorance, however the person who has been harmed will be listened to and supported, and the person who has done the harm will still be accountable.*

## Impact of Sexual Harm

The policy may outline the impact of sexual harm ensuring there is awareness of the broader impacts that can occur, either in the policy document (see Examples 6 and 7) or in an appendix. This information could also be made available in educational information provided elsewhere, as part of the school's resources, education, or induction material. See Appendix "E" (page 25).

### Example 6

*Sexual harm to a staff member or within the school environment will likely impact on others within the school community, and the reputation of the school may be affected. [Name of School] recognises these broader impacts and undertakes to provide support to people in the wider school community and help remedy other impacts.*

### Example 7

*It is recognised that sexual harm can take many forms and impact on people in different ways: Physically, emotionally, psychologically, and spiritually.*

*These impacts can occur even if the sexual harm is not seen by others as severe. One of the main impacts is loss of trust, in the person that has caused the harm, or of other people, including with the school community, or of people in general. Many people feel afraid, do not want to see the person who harmed them, and be in places where the harm occurred. It is common for the person who has harmed to use implicit or explicit threats to gain compliance. The person who has been harmed therefore may not feel safe within the school environment and their behaviour may be consistent with that. People can also experience anxiety, depression, and trauma after sexual harm. It is a common response for other people to blame the person who was harmed for what happened, however this policy recognises that the person who was harmed is not responsible.*

## Legislation

The policy should outline the legislation that underpins the policy see Appendix D. This can be included into the policy with hyperlinks to the relevant legislation, or to a website such as the Human Rights Commission that outlines the legislation as in Example 8 or refer to this legislation in a summary appendix such as Appendix "D" (page 23).

### Example 8

*This policy is underpinned by New Zealand legislation, as outlined in the:*

*Employment Relations Act 2000  
Human Rights Act 1993  
Health and Safety at Work Act 2015  
Crimes Act 1961  
Harmful Digital Communications Act  
Harassment Act 1997*

*For a summary of this legislation please see Appendix xx.*

### Who, where, and when the Policy applies

The policy needs to state who the policy applies to, and where and when it applies. This policy toolkit is focussed on the sexual harm directed towards staff of the school, however the person who has engaged in the harm may come from any part of the school community including other staff, students, board members, volunteers, whānau, visitors or contractors. Therefore the policy needs to apply to all of these people, as in Example 9, and the school will need to ensure everyone is aware of the policy.

It is up to each school to decide whether the policy will be extended to cover sexual harm directed towards others within the school environment, such as students, board members, volunteers, whānau or visitors to the school, or whether separate policies will be created that cover these groups. If schools have separate policies for different populations within the school, they should be referenced in this policy as in Section 5.

If the policy is being applied to include sexual harm against others in the school community the wording in the policy will need to be amended to reflect that.

### Example 9

*This policy covers sexual harm directed towards any employee of this school, whether permanent, fixed term or casual, full-time or part-time, paid or unpaid. The term staff member (or staff/ employee/ staff and volunteers etc) will be used to refer to everyone that is covered by the policy.*

*Additionally all other people within the school community are subject to this policy if they engage in harmful sexual behaviour towards any staff member of this school. This includes, but is not limited to: students, board members, volunteers, contractors and other people engaged to provide services to the school, staff or students, or on behalf of the school, all whānau who come to the school and other visitors to the school.*

When specifying where and when the policy applies, the policy will need to describe the situations and times specific to the school, such as on the school campus, when people are representing the school, or on social media, see Example 10. Consideration needs to be given to how social media is covered, as school accounts can easily be seen as fitting in with the policy, whereas it is difficult to cover people's private social media

accounts. However, if the sexual harm is directed towards a person via a social media post by someone covered by this policy, it could form part of evidence for a complaint.

### *Example 10*

*This policy will apply*

- *Across all part of the school campus, and at any place, function, or event where a staff member is on school business or representing the school in any way.*
- *At all school-related events including travelling on behalf of the school or with a school group.*
- *On social media (school or otherwise) where a staff member becomes aware that content that meets criteria for harmful sexual behaviour has been shared about them by a person covered by or subject to this policy.*
- *In any situation where a person who is subject to this policy and their behaviour could impact on a staff member of the school.*
- *In any situation where a staff member of the school is performing duties on behalf of the school, and their conduct could bring the school into disrepute, or could damage the relationship the school has with any person or group within the community.*

### **Relevant organisational policies**

It is usual for a policy such as this to reference other similar policies. See Example 11.

### *Example 11*

*This policy is a health and safety policy designed to keep staff at this school safe from sexual harm. It links to these other school policies:*

- *Student Sexual Harm policy*
- *Board and Volunteer Sexual Harm Policy*
- *Policy on bullying*
- *Health and Safety Policies*



## Commitment/ Purpose/Objectives and Responsibilities of the School

This is a strong statement that makes clear the purpose of the policy part of the school's wider commitment to ensure that the school environment is free from harm in all forms, and what the school will undertake to do to ensure everyone understands the policy and knows what to do. It may be linked to the values of the school. It also includes outlining specific actions the school will undertake to ensure there is no tolerance for sexual harm, and that it will educate the school community about sexual harm. Additionally, if sexual harm is reported that the school will support those impacted staff and take action against those who have engaged in the harmful sexual behaviour. See Example 12.

### Example 12

*This policy is a part of [Name of School]'s commitment to:*

- *Show that this school does not tolerate sexual harm*
- *Ensure that all staff understand and how to prevent, report and respond to sexual harm*
- *Identify environmental and other factors that contribute to sexual harm, and put effective measures in place*
- *Openly discuss sexual harm in formal and informal settings and identify, address, and educate about the behaviour that enables or condones sexual harm, including tolerance for everyday sexism within both the staff and student body of this school*
- *Ensure that everyone that this policy applies to is aware of this policy and understands what constitutes sexual harm, and that it is visible to everyone in the school community, including contactors, visitors, whānau, and students.*
- *Ensure that there are a range of options for resolution within the school, and that staff have the right to raise a personal grievance under the Employment Relations Act 2000 or submit a complaint under the Human Rights Act 1993 to the Human Rights Commission*
- *Ensure everyone that this policy applies to is aware of what can be expected if they engage in sexual harm towards a member of staff*
- *Ensure that all staff know the options available to them if they witness sexual harm to other staff*
- *Ensure support is available to any staff member who is harmed in order to feel safe in their duties or engagement with the school, and that anyone that has engaged in harmful behaviour is supported while going through any processes and to seek assistance for their behaviour, while they remain within the school environment.*
- *Ensure key staff are trained to receive reports of sexual harm and to give support and advice*
- *Ensure appropriate action is taken against any person who breaches this policy*
- *Encourage safe, active, bystander [or upstander] intervention*

## Obligation and Responsibility of All Staff

Further statements can be added about the responsibilities of staff members, or everyone at the school, regarding this policy, outlining their responsibility to prevent or stop sexual harm, and to support others in the school community to take reasonable steps to act if there is sexual harm, see Examples 13 and 14. Some schools may prefer to identify the specific accountabilities of management and staff or other people in particular roles within the school within the policy. This may mean the responsibilities outlined in Section 5 are amended and allocated to specific roles within the school. For an example of this see Appendix “F” (page 27).

### Example 13

*All staff members have a role to play:*

- *to prevent and eliminate sexual harm, including promoting an environment that respects the will and feelings of others regarding any sexualised behaviour*
- *to refuse to tolerate any harmful sexual behaviour*
- *to support others in the school community to take reasonable steps to stop sexual harm or to take action to report sexual harm.*

*Anyone who wishes to speak about concerns of sexual harm can [contact xx; follow the reporting process as outlined [below, in section xx etc]*

### Example 14

*Everyone at [Name of School] has a role to play to prevent and respond to sexual harm. Without exception, everyone is expected to behave in ways that are safe, respectful, and inclusive. People who speak up about or report concerning behaviours they see or know of against any staff member of this school makes a valuable contribution to the health and safety of our school by supporting someone who may be subjected to the behaviour and preventing escalation or repeat behaviour.*

*Anyone who wishes to speak about concerns of sexual harm can [contact xx; follow the reporting process as outlined [below, in section xx etc] without personal repercussion*

## Raising concerns and pathways for resolution

The policy should outline the principles that inform the way a report or complaint of sexual harm will be handled and then provide the specific process/procedure for dealing with the report or complaint.

An Introduction or overall statement is helpful, as well as clarifying principles such as confidentiality. Further detail about principles can be added to clarify how disclosures and complaints will be handled by the school. For an example of an introductory statement see Example 15 below, and for suggested further details or clarification of about principles see Appendix “G” (page 29). A trauma-informed approach is recommended, see Appendix “I” (page 32).

### Example 15

*[Name of School] is committed to ensuring that anyone who raises a concern about sexual harm will be treated fairly and respectfully and a number of options will be provided to ensure those reporting harm can speak to a person with whom they feel most comfortable. Confidentiality will be maintained as appropriate.*

*For this policy, confidentiality means that information about a disclosure, complaint or query is only provided to people who need to know about it. Information about both parties will be treated confidentially to the extent possible and information will be disclosed on a strictly need-to-know basis, such as to those involved in the resolution of this situation. Note this will vary depending on the circumstances and how the person who has been harmed wants to proceed.*

## Responding to Sexual Harm

The policy needs to recognise that when a person experiences or witnesses sexual harm that there are many ways that they may choose to deal with it. The first option a person chooses may not meet their needs or be successful, so people need to know that they can choose other options, and also pause or withdraw from processes. The responsibility of the school also needs to be explicit, outlining times when the school may make a decision to go ahead with an investigation, even if the person does not want this to happen, see Example 16.

### Example 16

*Anyone who witnesses or experiences sexual harm is encouraged to seek support either informally or formally to determine the best course of action. Some people may choose to respond to the sexual harm themselves. Others want to let the school know what happened, but not make a formal complaint. Some want to make a complaint to the school and others to make a formal complaint to an external body. It is recognised that people take more than one action, and that at times people want to pause or withdraw from a process. The following procedures outline each of these processes and makes clear the school's responsibility in each case.*

## Support

The policy needs a statement about support options and to specify who is available within or outside the school to provide support. Suggestions and links to specialist services should be included, see Examples 17 for a general statement. Example 18 provides specific support options, which may be incorporated into policy, or detailed separately as part of a procedure document. See Appendix "N" (page 39) for links to specialist services.

### Example 17

*Anyone who witnesses or experiences sexual harm is encouraged to seek support either informally or formally to determine the best course of action. Some people may choose to respond to the sexual harm themselves.*

*Others want to let the school know what happened, but not make a formal complaint. Some want to make a complaint to the school and others to make a formal complaint to an external body. It is recognised that people take more than one action, and that at times people want to pause or withdraw from a process.*

*The following procedures outline each of these processes and makes clear the school's responsibility in each case.*

### *Example 18*

*Any staff member who has experienced or witnessed sexual harm is encouraged to seek assistance, guidance and support from a trusted person whether this is within, or outside of, the school.*

*There are also a range of people who can be contacted if you have experienced or witnessed sexual harm.*

*You can approach any of the following:*

- *A trusted friend, advisor or colleague*
- *A senior member of staff*
- *The Sexual Harm contact people [names]*
- *Your Head of Department*
- *The Principal or Deputy Principal*
- *Health and Safety Representative*
- *Your union (PPTA)*

*You can access external support through the XXX EAP Scheme or phone the [Safe to Talk Helpline](#).*

*Contact details for specialist services for those who have experienced sexual harm are found at the end of this policy [page xx].*

## **Procedures for handling sexual harm disclosures/complaints**

Each school needs to determine its own process for managing complaints of sexual harm. These include self-resolution, informal processes, anonymous complaints, making a formal complaint including the investigation process, and information about making a complaint to external bodies. *Sections 12-20* provide further information about each of these aspects. It is recommended that all of these procedures should follow a trauma informed approach, see Appendix “1” (page 32).

### **Self-resolution**

This gives suggestions about what staff may want to keep in mind if they choose to resolve a situation of sexual harm themselves. Note: a staff member is not required to attempt to resolve the situation themselves before being able to raise a complaint. See Example 19.

### *Example 19*

*Some staff may feel more comfortable dealing with the harmful behaviour themselves. This will depend on the situation, the people involved, and whether they feel safe to approach the other person. Resolving the situation themselves involves them letting the person who engaged in the harmful behaviour know that their behaviour is unwelcome, inappropriate and needs to stop. Usually, the harm is at the lower end of the spectrum such as unwelcome or sexualised comments, looks, or low-level inappropriate touch.*

*This option may be appropriate if:*

- *the person who has experienced the harm feels it is safe to confront the person whose behaviour is considered problematic and*
- *where the behaviour has not resulted in a serious impact*

*Self-resolution actions may include:*

- *directly communicating with the person doing the behaviour that it is inappropriate and offensive, and asking them to stop. The person may ask a support person to accompany them when they do this.*
- *Asking an appropriate person to step in informally – this would mean they would discuss what happened, listen impartially, and determine what is needed to resolve the situation.*

### **Making a disclosure/Raising a concern about sexual harm**

The policy should outline the procedure for making a disclosure or reporting a concern within the school. This may be the first step towards making a complaint or the person who has experienced or witnessed harm may wish to let the school know what has happened and not go any further.

Alternatively the person may wish to engage in an informal process as outlined in Section 15. There may be times when the school considers the disclosure serious and determines that more formal action needs to be taken, so this should also be stated. See Example 20.

#### *Example 20*

*A person who has experienced sexual harm has the right to tell someone else about the sexual harm. This is known as a disclosure.*

- *If a disclosure is made to a staff member from [Name of School] the person's name will be kept confidential unless the person gives permission to share their name, or there is an imminent threat of harm.*
- *A person making a disclosure can decide later to go ahead and make a formal complaint.*
- *If the person making the disclosure does not wish to go any further and make a complaint, then the school will not investigate the incident(s) unless:*
- *there seems to be an immediate risk to the health and safety of the person who has disclosed and/or another person in the school.*
- *other [staff/people] name the same person alleged to have done harm in a separate disclosure or complaint and the school is concerned that there may be a risk to health and safety of others*
- *If the school decides that they must investigate the sexual harm incident(s) the person who has disclosed will be informed and supported throughout the process.*

### **Informal intervention**

This is where the school supports the person who has made a report or disclosure to deal with the situation informally as they do not wish to make a complaint but want the person to know the behaviour is wrong and to try and resolve the situation. This may involve facilitated meetings or mediation. See Example 21.

### Example 21

*After a person has made a disclosure, they may wish to resolve the matter informally and request additional assistance to do so. An informal intervention involves discussion the issues and reaching agreement about acceptable behaviour, and a 'road map' for future communications.*

*Any outcomes should be documented by the third party to avoid any confusion about what has been agreed moving forward. The agreement reached will be added to the disclosure information.*

*Informal intervention can involve the following options:*

- *Support - Requesting support from an appropriate person on staff or a union representative to attend an informal meeting between the person who has engaged in the harmful behaviour and the staff member who has been harmed.*
- *Facilitation - Having an appropriate person (trained) on staff appointed to facilitate a meeting between the two parties.*
- *Mediation - This is a semi-formal option whereby both parties voluntarily choose to have an independent person (mediator) to help resolve the issue. The role of a mediator is to identify the main issues in an unbiased way, and to find potential solutions that both parties agree on. Mediation might be a suitable option if:
 
  - *both parties agree to mediation*
  - *the school agrees that serious disciplinary action does not appear warranted*
  - *the person who has been harmed feels safe; and*
  - *there is not a vast power imbalance.*
  - *the mediator has skills or experience in the subject area.**

### Making a complaint to the School about Sexual Harm

The process the school will use to investigate and deal with a complaint should be outlined. Note that any investigation must be aware of the impact of trauma on the person who has been harmed. Trauma is a response to an event that a person finds threatening, overwhelming or harmful. It can be a response to a single event or multiple events – when this is the case there are often additional complications for the person harmed. Secondary trauma can be experienced when a person hears about or witnesses a traumatic event. The approach adopted for the investigation should be victim-centred – going at their pace and anticipating any distress caused through participating in the investigation. This may mean that processes are paused at times to allow the person who has experienced the sexual harm to settle the distress and get additional support. Typical trauma informed approaches include:

- Listen without judgment
- Adopt protocols designed to minimise harm and prioritise the safety and wellbeing of victims
- Anticipate the distress caused and understand that victims may withdraw from work for a period of time

See Appendix “I” (page 32) for more detail.

An example of a complaint process is found in Appendix “H” (page 30).



Schools should be clear about the support and safety monitoring that will be provided to clarify the limitations of the role of the school. Further the school should describe their commitment to protecting against any further risk and addressing the impact of harm and reviewing how the school managed the process through seeking feedback from those who have made complaints. The school's commitment to ensuring staff are safe and preventing risk of sexual harm does not stop the end of the complaint or if the complainant withdraws the complaint or leaves the school. The process also needs to include that people can withdraw a complaint; however, the school may decide that the complaint has been serious and decide to investigate the complaint anyway.

### How to make a complaint

The school may outline the complaint process within the procedure, or simply refer or include links to the school's complaint process. The school may decide to only accept a written complaint or may include a verbal complaints process, see Example 23.

#### *Example 23*

##### *Making a written complaint*

*To make a written complaint, use the [required form].*

*It is best to complain in writing because it helps the school clearly understand the details and it speeds up the process.*

*A written complaint should have as much detail as possible including:*

- *dates, times and locations where possible*
- *name(s) of the person complained about and any potential witnesses*
- *the details of the events that took place*
- *how the behaviour made you feel*
- *any impacts to your work*
- *any actions already taken to resolve the issue*
- *if the incident(s) impacted or endangered your health and safety.*

*If you have a preference for what you would like to see happen, you should also include this in your complaint so that we can consider these views.*

##### *Making a verbal complaint*

*To make a verbal complaint, there must be a record of the conversation – either via sound recording, or the person receiving the complaint takes notes. This record is transcribed or typed up and the transcript is reviewed by the person making the complaint or allegations to ensure the information is accurate and that it conveys all the information. This process can be time-consuming, and for this reason, a written complaint is preferred.*

## Investigation Process

The policy and procedure can outline the principles for a trauma informed investigation process or include a link to that process, see Example 24. See Appendix “I” (page 32) for more information about a trauma informed process, and Appendix “J” (page 34) for an outline of an investigation process.

### Example 24

*Investigations will be carried out by unbiased people from either within or outside the school and will involve a process that is fair and aligned with the principles of natural justice. Ideally the investigation team will include people with knowledge of sexual harm and trauma and who are trained in investigating claims of sexual harm. Both the complainant and the person alleged to have caused harmed can object to any or all investigator(s), if there’s a perceived conflict of interest. The investigation process used will be informed by knowledge of the impact of trauma, and that the response to a complaint has the potential to cause further trauma.*

*Both/all parties may have a support person, however, to avoid conflicts of interest, the same support person should not support both/all parties involved. The investigation team is responsible for determining what happened and whether the behaviour being complained about is in breach of this and other associated workplace policies. See [Appendix xx, or the school complaints procedure] for a detailed outline of the process.*

*During the investigation, interim measures may be put in place, such as discretionary leave with pay, a person being reassigned/relocated to another area of the school, or a person being suspended pending the outcome of the investigation. Interim measures should in no way be interpreted as anticipating or determining the outcome of the complaint; but as a way of ensuring the health and safety of both parties.*

## Outcome and follow-up

The procedure should outline next steps following the investigation process so that both parties are appropriately informed and to ensure the investigation maintains a trauma informed approach See Appendix “J” (page 34).

## External Intervention

The procedure should indicate that a person is entitled to make a complaint about the sexual harm to an external body, instead of or as well as using the school complaints procedure. It is important to indicate there may be time frames for reporting. See Example 26 and see Appendix “K” (page 35) for information about the external bodies and timeframes. These may be provided as an appendix to the policy.

### Example 26

*Anyone who has experienced sexual harm, has the right to choose whether to complain under the [Name of School]’s complaint’s process, or to make a complaint under relevant legislation, or both. It is important to note that there are time frames for reporting under some legislation. Anyone can still make a report or lay a complaint with the New Zealand Police, whether they have reported it to their employer or gone through one of the above external intervention processes. Please see Appendix xx for further information.*

## Witnesses, Bystanders and Upstanders

The policy and procedure may contain information specific to those who are aware of sexual harm occurring within the school, which includes those with a suspicion that harm may be occurring or have occurred. The policy can address expectations about speaking up and the obligation to ensure the school is a safe workplace, and free from sexual harm. See Example 27, and Appendix “L” (page 37) for further detail.

### Example 27

#### *Witnesses, Bystanders and Upstanders*

*A witness or bystander is someone who sees harm occurring. An upstander steps in to stop the harm from occurring or continuing. We expect staff to speak up when they see unacceptable behaviour, where it is safe to do so. Anyone who has witnessed unwanted or harmful sexual behaviour is encouraged to advise an appropriate person immediately. Support and advice will also be available from the school to a witness, bystander or upstander. Possible actions by bystanders/upstanders are included in Appendix xx.*

## Measures for Prevention of Sexual Harm

The policy should outline ongoing prevention measures against sexual harm. An introductory statement is provided in Example 28 and measures for prevention that can be included in this policy are found in Appendix “M” (page 38).

### Example 28

*[Name of School] commits to supporting all staff to be aware of their requirements under this policy, and to maintaining a culture wherein sexual harm is not tolerated: it is called out, and people feel safe to report it. To do so, we will: [provide examples] (see implementation guide)*

## Related Resources

The policy could provide links to national and local support services. See Appendix “N” (page 39) for an example of support services. This example is based on local Wellington Support Services and services in other main centres and can be amended for different locations.

## Definition of Sexual Harm

There is no one definition of sexual harm in Aotearoa/New Zealand.

[Safe to Talk \(safetotalk.nz\)](http://safetotalk.nz) the national phone line for sexual harm defines it as:

“When someone has a sexual experience they don't want, or are forced into any kind of sexual act by another person, they've experienced sexual harm. Sexual harm can happen in lots of different ways: It might involve physical contact, or it could be online; It might have happened once or maybe lots of times. It might involve one, two, or more people”.

[The New Zealand police website \(www.police.govt.nz\)](http://www.police.govt.nz) states “Sexual assault is a term used to describe a range of sex crimes committed against a person. It is any unwanted or forced sex act or behaviour that has happened without a person's consent”.

Sexual harassment is defined by the Human Rights Act (1993) as unwelcome or offensive sexual behaviour, whether spoken or written, visual or a physical act, where there is an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment”.

Behaviours which reflect preferential treatment and sexual coercion in a school setting include, but aren't limited to, offers and/or promises of:

- Promotion or allocation of special duties
- Pay rise or positive performance assessments linked to pay progression
- Additional units on salaries or allowances such as Middle Management Allowance
- Additional hours, overtime hours, non-contact time or training and development time
- New equipment (e.g., classroom or sports equipment) or access to equipment or resources
- Preferential treatment for their class or student.

In contrast, behaviours that reflect detrimental treatment and sexual coercion include, but aren't limited to, intimidation and threats of:

- Dismissal or removal of special duties
- Pay cut or being denied a positive assessment linked to pay progression
- Being denied additional units on salaries or allowances such as Middle Management Allowance
- Pay cut or withdrawal of other entitlements
- Reduction of work hours or being declined additional hours, withdrawal or denial of non-contact hours or training and development time.
- Being unreasonably pressured about performance requirements
- Extra work  
Not getting needed supplies or students being denied support, services, or opportunities.

Consent is an important concept when considering sexual harm. A person consents to sexual activity if they do it actively, freely, voluntarily, and consciously without being pressured or threatened into it. It is important to note that just because a person allowed, didn't say no, or did not physically resist sexual activity, it doesn't necessarily mean that they consented to it – submission is not the same as cooperation. Section 128 of the Crimes Act (1096) (see Appendix D) outlines a number of conditions in which consent to sexual behaviour cannot be given, including being under the age of 16, having a disability that impacts of the ability to give consent, and being unconscious, asleep or under the influence of substances. Consent can also be withdrawn at any time, and it is a crime to continue sexual behaviour once this has happened. This includes where people have agreed to the behaviour, or not voiced concern about the behaviour, due to a threat or implied threat such as fear for their job or role within or on behalf of the school.

Schools may also consider whether some practices that exist within the school environment may constitute sexual harm, if a staff member or other person in the school feels uncomfortable, or is under pressure to be involved or support these events. Examples include young women teachers being called on to judge a "sexy boy" competition or staff or other in the school community feeling they have to participate in or support a "grundy run" where people run in their underwear. If considering a policy covering other people in the school community, it is important to consider the types of pressures and threats that students or whānau may experience, for example whānau members may fear their child will experience a negative impact if they report harmful behaviour.

It is important to note that what people consider inappropriate behaviour may be dependent on different cultural understandings. At times people put up with things they find offensive as they feel intimidated or want to be seen as able to handle it. In this circumstance the person who has done the harm may not have known the behaviour was unacceptable or intended to cause harm, for example a person telling sexualised jokes in front of others for whom this is unacceptable in their culture or faith. Even if the behaviour was not intended to cause offence and the person is unaware their actions caused offence, this still meets the definition or sexual harm.

## Examples of Sexual Harm

These include, but are not limited to:

### Non-verbal:

- Looking someone up and down ('elevator eyes')
- Making sexual gestures or expressions (obscene body movements, winking, licking lips)
- Giving unwanted personal gifts
- Following and/or blocking a person's path

### Verbal:

- Unwanted sexual advances, sexualised comments or jokes
- Diminutive remarks (referring to an adult woman as a girl/doll/babe/honey or referring to an adult male as a boy or lad)
- Sexualised remarks (e.g., calling someone as a hunk, stud, whore, manwhore, slut or skank)
- Unwanted requests to go on dates or to spend time outside school hours (requesting someone to meet up for school purposes outside of reasonable work hours)
- Telling others about someone's sex life and/or spreading rumours about a person's sex life or extorting sexual favours by threatening to reveal and/or discuss private information i.e., threatening to share naked images or threatening to reveal something personal, e.g., a sexual encounter, their sexuality or gender identity
- Asking about personal sexual information (sexual fantasies/identity/history)
- Making sexual comments about a person's anatomy, looks, and/or dress, sexuality or perceived sexuality, or gender.

### Physical:

- Unwanted touching (pinching, groping, leaning over, cornering, and/or trying to give shoulder massages/back rubs)
- Stalking or following someone
- Physically assaulting a person if they won't engage in sexual activity
- Forcing, threatening, or coercing someone to engage in sexual activity.
- Indecent assault – kissing or sexually touching another person's body without their consent such as touching a person's breast, bottom, or genitals, either under or over clothes.
- Sexual assault – engaging in sexual acts against another person through coercion, force, or threat, or in a situation or circumstances where they cannot give consent.



Digital/Online:

- Offensive or unwanted online sexual material including being exposed to sexual images on devices (e.g., on screensavers) or shown sexual imagery or text online.
- Being sent unwanted or offensive online sexualised requests, comments, material, or imagery
- Online stalking such as excessive and inappropriate comments or “likes”.
- Posting offensive sexualised comments about a person without their consent to a third-party website, online messaging service, or to another person.
- Offensive sexualised written or visual material about a specific person, that is stored or shared on a device where that person has not given consent for the material to be kept stored or shared.
- Sharing images or recording or distributing intimate content of another person without their consent (even if this was originally obtained with consent).

### Addressing common myths

- Sexual harm can happen to people of any gender, age, size, religion, sexuality, appearance, or ethnicity.
- People of any gender, age, size, religion, sexuality, appearance, or ethnicity can engage in harmful sexual behaviour.
- A person can sexually harass or harm unintentionally. Sexual harm is any act outlined in Appendix B and it does not matter what the intention of that act was. An intent to joke or amuse, compliment, or any other reason has no bearing on whether sexual harm did or did not occur.
- Ignorance as to what sexual harm is does not excuse sexual harm.
- Sexual harm does not require a pattern of behaviour; a single act outlined in Appendix B amounts to sexual harm.
- While sexual harm often happens within a context of a power imbalance, that power imbalance is not always obvious and may not follow stereotypical lines. For example, a student may sexually harm a teacher, a woman can harm a man, a junior staff member may sexually harass a middle manager.
- It is never a person's fault that they were sexually harmed. Many people try and blame the person who was harmed for the sexual harm due to their clothing, comments, actions, being intoxicated or for going to a particular place. However the responsibility to act in a harmful way always remains with the person who harmed.
- Intoxication does not excuse sexual harm. Many people only engage in harmful sexual behaviour when they are drunk or under the influence of other substances. However this does not absolve them of responsibility for their actions.

## Legislation

The [Crimes Act 1961](#) outlines:

- Anyone of any age is capable of sexually harmful behaviour.
- Sexual assault is any sexual act without a person's consent (or without a reasonable belief that a person is consenting), even if that sexual act is between married people.
- Attempting sexual assault is a crime.
- A person does not consent to sexual activity just because they don't protest or resist the activity.
- Even if a person allows sexual activity, that sexual activity is not consensual if:
  - They are under the age of 16
  - They have force applied to them or someone else
  - There is the threat or fear of force to them or someone else (even if a threat is implied and not expressed)
  - It happens while they are asleep or unconscious
  - It happens when they are intoxicated (from alcohol or drugs) to the extent that they cannot meaningfully consent or refuse the activity
  - If they are affected by an intellectual, mental, or physical impairment that is of a degree that they cannot meaningfully consent or refuse the activity
  - They are mistaken or misled about who the person is
  - They are mistaken or misled about some quality of the sexual activity (e.g. the use of condoms, or the kind of activity)
- Additionally, consent can be withdrawn at any time, so it is a crime if sexual activity has gone further than what the person originally consented to and/or the other person carries on with sexual activity after the person has withdrawn consent

The [Employment Relations Act 2000](#) outlines:

- Sexual harassment is understood as receiving an indirect or direct request for a form of sexual activity
  - with an overt or implied promise of preferential treatment, or
  - with an overt or implied promise of detrimental treatment, or
  - with an overt or implied threat about the present or future employment status of the employee
- Sexual harassment is also understood as behaviours that an employee is subjected to (directly or indirectly), that are unwelcome or offensive, which have a negative impact on an employee's employment, job performance, or job satisfaction.
- Sexual harassment can happen
  - verbally, or
  - through written language, or
  - through visual material, or
  - through physical behaviour
- If an employee is harassed by a person other than their employer (e.g., client or colleague) they may make a complaint to their employer or a representative of their employer. An inquiry must be made by the employer or representative. If the employer or representative is satisfied that sexual harassment took place, they must take whatever steps are practical to prevent it from happening again.

- It also outlines an employee’s right to make a personal grievance regarding being harassed at a current or former place of employment, or if steps have not been taken to prevent harassment from reoccurring.

The [Human Rights Act 1993](#):

- Defines sexual harassment as unwelcome or offensive sexual behaviour, whether spoken or written, visual or a physical act, where there is an implied or overt promise of preferential treatment or an implied or overt threat of detrimental treatment.
- It has an outline for complaints, that are very similar to the Employment Relations Act.
- It differs from the Employment Relations Act in that protection against sexual harassment extends to people applying for employment, volunteers, members of a union or association (and those applying for membership).

The [Health and Safety at Work Act 2015](#) outlines:

- An employer, as much as reasonably possible, must ensure the emotional and physical health and safety of employees, and protect from risk of harm in the workplace and/or while employees are working.
- Employees must take reasonable care that their actions or inactions do not affect the emotional and physical health and safety of other people, and cooperate with policies and procedures relating to health and safety.

The [Harassment Act 1997](#) outlines:

Harassment can be experiencing two or more occasions of any of the following:

- Watching, loitering near, or hindering access to or from a person’s house, place of employment, or any other place that a person frequents.
- Following someone, stopping someone, or speaking to someone in an aggressive way
- Entering or interfering with someone’s property without permission
- Contacting someone in any way (e.g., through phone, letter, e-mail)
- Giving offensive material to someone, placing offensive material where someone will likely find it, or getting a third party to pass on offensive material
- Acting in any way that would cause a person to reasonably fear for their safety
- The law recognises that an act of harassment may appear innocent or trivial when considered on its own
- In the instance of harassment, a person has the right to apply for a restraining order

The [Harmful Digital Communications Act 2015](#) outlines that:

- No one may make, share, or post a visual image or recording of a person without their knowledge:
  - that is intimate in nature, or
  - where someone is engaged in an activity that involves dressing or undressing, or
  - where someone has intimate areas exposed, partially exposed, or covered solely by undergarments

## Impact of Sexual Harm

Anyone can be subjected to sexual harm, regardless of gender, sexuality, ethnicity, race, age, religion or ability. It can occur within or outside of a relationship, including a friendship, family relationship or work/school or other social relationship. Sexual harm-almost always involves an abuse of trust and power, such as the person who harms being older, bigger, stronger or in a position where they have authority over the other person. On occasion the person who sexually harms another can be unaware of the potential impact of their actions due to their immaturity or young age, or cognitive or developmental impairments.

While it is common for people to blame the person who was harmed for what has happened due to the way they have dressed, spoken or acted, or for being in the place where the harm occurred, It is never the fault of the person who has been sexually harmed. Most people who sexually harm others have planned the harm to some extent, and tend to use some form of manipulation or coerce or exploit vulnerabilities of the person they have harmed.

Sexual harm can result in a person experiencing negative physical, psychological, emotional, and spiritual impacts. This can include but is not limited to self-blame, guilt, loss of self-esteem, loss of trust, loss of self-confidence. It can also lead to or exacerbate mental health difficulties such as anxiety, depression, and trauma. These impacts typically mean the person who was harmed becomes fearful of having contact with the person who harmed them, or going to places the harm occurred, or being exposed to reminders of the harm. This is a common and normal response to trauma.

Sexual harm can lead to increased absenteeism, a reduction in work or role performance, fear of potential consequences if there were threats, promises of extortion, and may mean the person acts differently in the school environment or leaves the school.

Although people, and the law, try to define the severity of sexual harm, it is important to realise that the severity or impact of the experience is defined by the person who has experienced the harm and way it has affected them. Though we cannot say that one form of sexual harm is more severe than another, there is a general understanding that more serious behaviours tend to cause more serious harm- Sometimes behaviours at the “lower end” of the spectrum may be tolerated as one-off events but if repeated, endorsed by others, or continued after the person has been asked to refrain, will cause more serious harm. This can be understood as on a spectrum of sexual harm. See Figure 1 below.

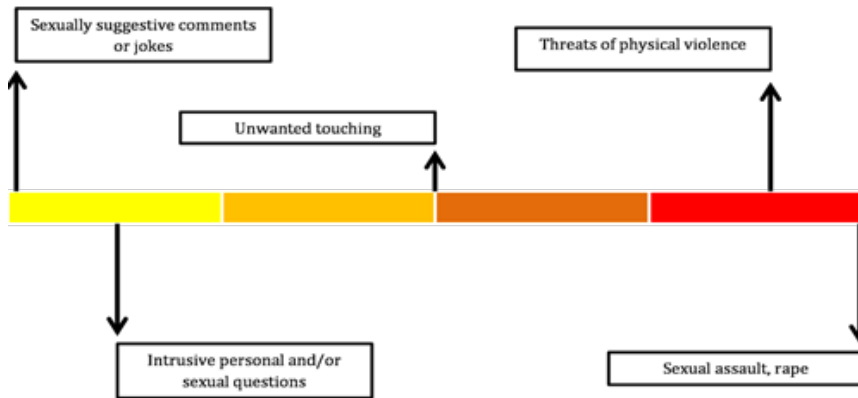


FIGURE 1 SPECTRUM OF SEXUAL HARM

Sexual harm has wider impacts on the school including the time taken to investigate and respond to complaints of sexual harm. Other staff members or people within the school community may be impacted by the knowledge of what has happened to their colleague, and some may experience symptoms of trauma themselves. This is known as secondary traumatising, where people feel the impact of something that has happened to another person. Other issues may also create impacts, such as people being stood down, or taking stress leave, people worrying about the school culture, and damage to the school’s reputation, especially if people outside the school community know about the harm. There may be conflict with the school or wider community as people tend to side with the person who has been harmed, or with the person alleged to have engaged in sexual harm.



### Role Specific Accountabilities/ Responsibilities of Staff

This provides an example of policy that ascribes responsibilities to people in different roles within the school.

#### The Board will:

- *respond to and eliminate sexual harm and ensure sexual harm prevention and early intervention are a priority in this school and that systems are in place to support this*
- *require regular reporting of frequency and types of incidents, immediate outcomes and long-term implications for parties involved*
- *support external transparency of incidents involving senior leaders and where there is legitimate public or stakeholder interest*
- *prioritise the care and support of those impacted by sexual harm in the school's approach to resolving the issue.*

#### Principal/Senior Leadership will:

- *Not tolerate sexual harm*
- *Openly discuss sexual harm in formal and informal settings and identify, address and educate about the behaviour that enables or condones sexual harm, including tolerance for everyday sexism within both the staff and student body of this school, and about the consequences for such behaviour*
- *Make sure this policy is visible to everyone in the school community, including contactors, visitors, students and whānau*
- *Identify environmental and other factors that contribute to sexual harm, and put effective measures in place*
- *Create an environment that encourages people to feel safe speaking up about or reporting sexual harm they experience or know of*
- *Make sure staff [or everyone in this school] have a range of ways to report sexual harassment informally, formally, or anonymously*
- *Train key staff to receive sexual harassment reports and give support and advice*
- *Ensure all staff members [all everyone in this school] know how to report sexual harm, what support, protection and advice is available, and their rights to representation*
- *Make sure processes and systems for reporting and responding to sexual harassment are fit-for-purpose and regularly reviewed*
- *Support an individual who is impacted by sexual harm, provide them with a range of options to address the issue and understand how they would like the issue managed.*
- *Provide a supportive environment to those who believe they have been sexually harmed and the person or people alleged to have harmed them*
- *Treat all parties fairly/impartially while allegations are dealt with*

- *Seek advice from both parties as to how they wish to deal with the situation*
- *Promote informal solutions before formal actions where appropriate*
- *Aim to repair the relationship between the parties and others who have been impacted and promote positive values*
- *Prioritise the care and support of those impacted when responding to issues raised or observed*
- *Report as required on incidents, immediate outcomes and long-term implications for parties involved*
- *Speak openly and confidentially with the impacted staff/stakeholders about any incidents/outcomes and reinforce expectations of safe, respectful, and inclusive behaviour.*

All staff will:

- *behave in a way that creates a safe, respectful, and inclusive environment that prioritises looking after the safety of others*
- *speak up when they see, know of or can anticipate the likelihood of sexual harm*
- *If appropriate, intervene in a way that is comfortable for them and if they feel safe to do so, to redirect a conversation or stop behaviour that is indicative of sexual harm*
- *ensure the person impacted is safe and check in on them if appropriate*
- *listen to the experience of the person impacted without judgement or preconceived solutions – understand how they would like to be helped*
- *follow our informal or formal processes when making a complaint.*

## Principles for dealing with complaints

These is an example of a statement with suggested principles that can be incorporated into the policy statement in a section about principles, or in other sections as appropriate.

### *Principles for Dealing with Complaints*

*[Name of School] undertakes to apply the following principles when dealing with disclosures or complaints of sexual harm:*

- *Reports can be made in the first instance to those with whom the person feels the most comfortable*
- *Reports can be made by those impacted directly or others who are aware of or have observed the sexual harm*
- *There are several options for dealing with sexual harm, from a person addressing the issue themselves, to an informal report, a complaint that the school investigates or making a complaint to an external agency. The school undertakes to support the wishes of the person who has been harmed, including about whether to proceed with a complaint, as long as there is no imminent risk of harm, or there is no risk to others within the school.*
- *There will be no time limitation as to when a report of sexual harm can be made to the school. It is understood that people need time to understand and process what has happened and will share the experience when they are ready. However it is important to note that there can be time limitations for external process, for example, formal reports under the Employment Relation Act or to the Human Rights Commission*
- *Principles of natural justice will be applied in terms of a process free from bias, and the right to have all parties' views considered, decisions will be made based on evidence, and all parties will be aware of what is being alleged or stated.*
- *Conflicts of interest will be avoided*
- *The school will ensure there is transparency about the process, and decisions that are made, as long as confidentiality is not breached*
- *All parties involved will be treated fairly and with respect and will have access to support*
- *The school will take all practicable steps to prevent retaliation or victimisation against anyone who reports sexual harm.*

## Making a Complaint to the School about Sexual Harm

### Example

*A person who has experienced sexual harm has the right to decide whether they want to make a formal complaint. If the school receives a formal complaint this means we must investigate what has been reported. The person making the complaint must provide information about the incident(s) otherwise it will be treated as a disclosure. The school suggests talking this through with [a support person and/or union delegate, Health and Safety Officer]*

*A person who has experienced sexual harm should make a complaint if:*

- *they want the school to investigate*
- *they are feeling unsafe in the school and want the behaviour to stop*
- *they want the school to take specific action. Note the person making the complaint can request a certain course of action, but the school may decide on a different course of action is more appropriate.*

*Once a person decides to make a complaint:*

- *the person identified as having engaged in harmful behaviour will need to be told about the complaint*
- *the person making the complaint will have to give their name*

*[Name of School] understands that making a complaint about sexual harm can be difficult and any process for discussing or investigating the complaint will take into account the impact of sexual harm and follow a trauma informed process. We will also avoid conflicts of interest. For example, if the person harmed, or the person alleged to have acted in a harmful way, has a close relationship with a person normally involved in receiving reports or investigating complaints then this will be assigned to another person within or outside the school. If the person harmed or alleged to have harmed is a senior staff member, principal, or board member, this will be referred to an external person or organisation.*

*A person making a complaint can decide to withdraw the complaint at any time, without retribution from the school. There are times that the school may decide that the best course of action is to continue to investigate. This will not happen unless:*

- *there seems to be an immediate risk to the health and safety of the person who has disclosed and/or another person in the school*
- *one or more staff name the same person accused of doing harm in a separate disclosure or complaint and the organisation is concerned that there may be a risk to health and safety to others*

*[Name of School] has a commitment to providing support to both parties, and to monitoring safety while both the person who has made a complaint and the person who is the subject of the complaint are part of the school community. This means:*

- *We will continue to provide support to any person who has made a complaint and any other staff affected by the sexual harm for as long as they are employed with the school and require support.*
- *We commit to monitoring the person who is the subject of the complaint, and providing support to that person, for as long as they are a part of the school community.*

*[Name of School] also has a commitment to ongoing safety and continuous improvement. This means that when at the end of a complaint process we will ask the person who made the complaint for feedback on their experience of the complaints process, to ensure our response to sexual harm is constantly improving.*

*We will review our policies and procedures on a regular basis, and as part of the review process after any investigation and update our policy and processes as necessary. This is regardless of whether a complaint is completed or withdrawn.*

## Trauma Informed Approach to Disclosures, Complaints and Investigations

The process for investigating a complaint of sexual harm should be trauma informed. Without a grasp of how trauma can affect evidence, the process may be seriously compromised, with a complainant or witnesses also being at risk of being put through further distress. This means that those investigating an allegation of sexual harm should have attended training about the impact of trauma, or should ensure they have read about the impact of trauma on the brain, especially memory and recall.

Trauma is a response to an event that a person finds physically or emotionally threatening or harmful. People can become traumatised by repeated incidents of harm, by significant single events, or by events that are reminiscent of traumatic events they have experienced in the past. People with a close association with someone who experiences a traumatic event (also known as secondary or vicarious trauma), so witnesses in a complaint of sexual may also experience trauma.

Trauma has been shown to cause changes in various areas of the brain that can be likened to physical brain injury in some cases, especially the brain structures associated with fear and memory. The fear centre of the brain tends to become over-active and over-sensitive to situations associated with threat, such as an investigation where people ask questions about what happened. People can respond with hypervigilance and increased anxiety, and have difficulties focussing on the process. The part of the brain that regulates emotion tends to be shut down during an after a traumatic experience, so people who have experienced trauma tend to be emotional or seem dysregulated. They are more vulnerable when in other more stressful situations. The memory centre of the brain which is responsible for a person's ability to store, retain and later retrieve information. Trauma can affect the ways memories are made in the first place, whether they get transferred from short-term to long-term memory and whether or not a person can retrieve them in a clear narrative form. Often people's memories of traumatic events are fragmented, have gaps, are non-linear or are distressing.

There are four main groups of trauma symptoms:

- Intrusive memories. These tend to be recurrent and can be experienced as reliving the event (flashbacks) or as dreams or nightmares. These cause emotional distress and at time physical reactions.
- Avoidance – trying to avoid thinking about the event, or going to places, seeing people and undertaking activities that remind them of the event.
- Negative changes in thoughts or mood. People may have negative thoughts about themselves, others or the world and may feel hopeless about the futures. People may also detach from close relationships and activities they formerly enjoyed. They can have difficulty experiencing positive emotions and feel emotionally numb. Memory problems are common, especially memories for the traumatic event.
- Changes in physical or emotional reactions. People may be easily startled, frightened and on guard for danger. They often overwhelmed with guilt and shame and may have irritable angry outbursts, and at times behave aggressively. Problems with sleep are common, as are difficulties concentrating. They may engage in self-destructive behaviour.

An organisation that takes trauma into account will ensure they have protocols designed to reduce further harm and ensure the safety and well-being of the person that has been harmed. They will anticipate that the person will experience distress and may need to time to come to terms with what has happened, and to process each stage.



A trauma-informed approach will also be helpful for a person alleged to have caused the sexual harm, as while at times the harmful sexual behaviour is deliberately targeted and intentional, more often the behaviour is situational, impulsive, or, especially with a younger person, such as a student, may be related to harm they have experienced or are experiencing in their own life, especially bullying or exposure to violence in the home. Additionally, younger people with a learning or developmental disability may be set-up or encouraged by others to act in ways that cause harm. Frequently the person who has engaged in the harmful sexual behaviour experiences trauma on learning their words or actions have caused harm to someone.

The following approaches are recommended.

When receiving disclosures or complaints, or conducting investigations, about sexual harm

- Listen to the disclosure or complaint without interruption
- Ensure the safety and welfare of the person disclosing or making a complaint and immediately consider options such as whether the person needs to be granted leave or to not undertake some duties
- Ensure a senior staff member, or allocated person, undertakes to facilitate communicate with the person on the process, time frames and the outcome

When setting up the investigation or resolution process

- Provide a timely, independent procedure for any investigation or resolution process
- Provide clear information early on about privacy and confidentiality. Provide a written the process in writing
- Ensure patience in arranging meetings, interviews and requests for written accounts, as people with trauma find these difficult due to shame, memory problems or the strong need to avoid reminders of the trauma.
- Give the person some control over where or when they speak
- Ensure people have a support person, or opportunities to ask for support when they need it

When interviewing the person

- Ensure the interview room is private and comfortable with water and tissues available. Give people as much control as possible, such as where they sit and when they take breaks. Ensure they have the support they want and that they know they can stop anytime. If interviewing online make sure they feel safe and private and can easily end the interview if that changes.
- Take time to build rapport, even if you already know the person, as trauma leads to people being more guarded and detached from others
- Show empathy for the person's situation or distress, such as "I understand this can be a difficult process" or if they are distressed, "I can see you are finding this hard to talk about", would you like to take a break?". Statements such as this don't compromise the interviewers need to be unbiased but can mean the person feels supported and understood.
- Avoid being too directive in your questioning and do not expect a linear account. Ask questions such as "what else happened?" rather than "what happened next?". You can also ask where the person wantsto start, avoid being too directive and only ask clarifying questions when the person has finished giving their account spontaneously.
- Ensure that questions are not judgemental or victim blaming in any way (e.g. why didn't you call out/fight back/report it; what were you doing there so late?), rather ask things like "how did you respond?" or "what happened later on?". It is common for people to freeze when in traumatic situations, so asking about actions they could have taken will tend to increase their sense of shame or self-blame.

### Investigation Process

1. The person accused of doing harm is advised of the complaint, what is alleged and the potential outcome of the investigation. They will be given the opportunity to formally reply to the complaint within a specified timeframe.
2. The investigator(s) will conduct interviews with all parties including any witnesses using a trauma informed approach that takes account of the impact of trauma on memory and account giving and ensures the person has some sense of control over the process, for example where the interview takes place, having a support person, taking breaks. Following each interview, the person who was interviewed will have time to review the interviewers record of the interview and sign that their recount is true and correct.
3. If the investigator(s) have considered it is necessary and appropriate to obtain statements and/or interviews from any witnesses, this will then take place and the information will be provided to the complainant and the person alleged to have caused harm who will be given an opportunity to comment within a specified timeframe.
4. The investigator(s) will review any relevant documentation, collate the information gathered, and prepare a written draft report on their findings. This will be given to both parties who will have one last chance to comment within a specified timeframe before the investigators create a final report.

### Outcome:

5. The school will respond in-line with the report's findings and will ensure everyone is treated fairly; regardless of whether the claim is found to be true or false. Potential outcomes are outlined in the school complaints procedure [or Appendix xx] and may include findings of misconduct/serious misconduct.
6. 6) In line with the report's findings, the school will offer appropriate support to those involved which may include additional leave, additional training, or counselling as appropriate. Referrals to other organisations may also be recommended and if there is serious misconduct then the school complaints procedure will apply. The person who has experienced harm will not be required to meet with or participate in any activity with the person they are laying the complaint against unless they give their consent for this to happen.

## External Intervention Information

Anyone who has been sexually harmed can lodge a complaint under:

The Employment Relations Act 2000. An employee can raise a personal grievance for experiencing sexual harassment (as well as other forms of harm or unfair treatment) in their line of work. This must be raised within 90 days of an action or inaction (such as not protecting an employee adequately against sexual harm). Grievances can be raised with the employer or with the Employment Relations Authority. For more information, please see the following advice from [Employment New Zealand](#).

The Human Rights Act 1993, an employee may make a complaint to the Human Rights Commission for experiencing discrimination or racial or sexual harassment in the process of applying for work or during employment. If more than 12 months has passed from the matter of complaint, the Human Rights Commission may decline to take action; registering a complaint within 12 months of an incident is therefore advised. For more information, please see the following advice from the [Human Rights Commission](#).

The Harmful Digital Communications Act 2015, if a person has been the victim of harmful digital communications (e.g., harassment online, via text, or over email, image-based sexual abuse, threats, or the disclosure of sensitive personal information) they can make a report to Netsafe. If Netsafe cannot resolve the complaint, Netsafe can support complainants to apply to the District Court for resolution. There is no time limit for making a complaint. For more information, please see the following advice from [Netsafe](#).

The Harassment Act 1997, a person who has been harassed (e.g., experienced stalking, abusive messages, or threats) they may apply to the District Court for a restraining order and/or report the behaviour to police. There is no time limit for applying for a restraining order (although a judge may decline to issue a restraining order if they determine that sufficient time has passed since the most recent incident; registering a complaint within a month is therefore advised). For more information, please see the following advice from [Community Law](#) and [the Ministry of Justice](#).

Anyone can still make a report or lay a complaint with the New Zealand Police, whether they have reported it to their employer or gone through one of the above external intervention processes.

The Criminal Procedure Act 2011 outlines the time limit for reporting crimes to police. There is no time limit for reporting a category 4 offence. A category 3 offence must be reported to the police within 5 years of it being committed. A category 1 or 2 offence must be filed within 6 or 12 months depending on the offence; therefore, it is advised that reporting happen within 3 months.

Examples of category 4 offences: murder, attempted murder, manslaughter

Examples of category 3 offences: sexual assault, sexual conduct with a person under 16, indecent communication with a person under 16, strangulation, wounding a person with intent to harm them, abduction, non-consensually recording an intimate visual recording of someone

Examples of category 1 and 2 offences: violating a restraining order, harassing another person in a way that causes them to fear for their safety or the safety of a family member

For more information, [Community Law](#) can support people with free legal help and information; please also see advice from [NZ Police](#) on reporting a crime.

A person who has witnessed sexual harm may wish to consider making a disclose under the Protected Disclosures Act 2000. They are advised to read the school's Protected Disclosure policy and can contact the [\*Office of the Ombudsman\*](#) to discuss how to use the Act, and whether it applies to their situation. Making a Protected Disclosure does not guarantee confidentiality.

### **Witnesses, Bystanders and Upstanders**

Possible action by bystanders/upstanders includes:

- noticing the situation – observing or listening to what is happening
- assessing the situation – deciding whether someone needs help, for example if they look or uncomfortable or someone is doing something inappropriate?
- taking some appropriate action. This could mean saying something to distract the person making someone uncomfortable, making sure that the person who is doing something inappropriate knows that the behaviour is not okay or calling the authorities if someone is in danger.
- speaking with the person who was subjected to the harmful behaviour and making them aware of their options
- approaching the person who is displaying the harmful behaviour and explaining what was observed and the reason it is not appropriate
- raising the matter with a senior staff member or member of the leadership team.
- reporting the issue to [appropriate people within the school] or Union or Association representative
- Processing the situation – thinking about how the situation was handled and understanding the things that went well and could be improved on in the future.

## Prevention Strategies

The following are strategies that can be undertaken by a school to reduce sexual harm that can be written into policy and procedure.

- Promote a culture of accountability, where we talk openly about sexual harm and its impacts, to reinforce our zero-tolerance attitude. We will work consciously to ensure that a culture of silence, where sexual harm goes ‘under the radar’, is not present in our school. We will be transparent with our staff and community about issues and instances of sexual harassment at [School], in a way that respects the privacy of complainants and respondents.
- Ensure all new staff are inducted into this policy and related processes and procedures.
- Ensuring that senior and middle managers understand their obligations regarding mental and emotional health and safety.
- Host a ‘refresher’ training programme at least every two years that fosters a positive workplace culture, (re)educates staff about sexual harm, builds skills to support colleagues and safely intervene when they see unacceptable behaviour, and outlines processes and support avenues at the school and in the community.
- Investing in upskilling leaders and management at the school in soft skills, e.g., the ability to empathetically respond to disclosures, and cultural humility.
- Annually survey all staff to monitor the wellbeing of staff and gauge the prevalence of unhealthy behaviours or environments.
- Incorporate questions relating to staff welfare into appraisals and reviews, to create opportunities for staff to disclose any behaviour that has made them uncomfortable.
- At least twice a year remind staff in all-staff meetings that they can confidentially report any behaviour in the workplace that makes them uncomfortable and reiterate a zero-tolerance policy towards sexual harm. Remind staff of our commitment to natural justice, supporting complainants and respondents, and being led by the needs of people who have been harmed (unless there is a duty of care to take formal action upon a disclosure or report).
- Having support options available for people experiencing sexual harm – e.g., paid discretionary leave, support to access external support.
- Having support in place for respondents and staff during an investigation – e.g., discretionary leave, support to access external support.
- Monitor, and respond to, factors that increase the likelihood of sexual harm:
  - Gender imbalance in the school
  - Gender imbalance in leadership
  - Employment precarity
  - Remote employees, including staff being alone in classrooms outside school hours
  - A lack of diversity in the workplace
  - An overworked or stressed workforce

## Specialist Services

General	<p><a href="#">Safetotalk</a> offer free confidential contact with trained specialists and can connect you to support services in your community.</p> <p><b>Contact:</b> Live chat at <a href="http://www.safetotalk.nz">www.safetotalk.nz</a> Email <a href="mailto:support@safetotalk.nz">support@safetotalk.nz</a>, Phone 0800 044 334 or text 4334</p>	<p>Rape Crisis offers free support and counselling for people who have experienced sexual harm.</p> <p><b>Contact:</b> <a href="#">Wellington Rape Crisis</a>: Email <a href="mailto:support@wellingtonrapecrisis.org.nz">support@wellingtonrapecrisis.org.nz</a>, Phone 04 801 8973 or use their drop-in service on Level 4, 220 Willis St. <a href="#">Rape Prevention Education</a> (formerly known as Rape Crisis Auckland): Email <a href="mailto:info@rapecrisis.org.nz">info@rapecrisis.org.nz</a> Phone 09 360 4001</p>
	<p><a href="#">Sexual Abuse Help Foundation</a> provides specialised support for people affected by sexual abuse and assault across Wellington, Porirua &amp; the Kāpiti area</p> <p><b>Contact:</b> 24/7 crisis support line 04 801 6655 and push '0' at the menu. Wellington office: 04 801 6655 Porirua office: 04 237 8822</p>	<p><a href="#">Hutt Valley Sexual Abuse Support and Healing</a> provides support and counselling to people affected by sexual violence.</p> <p><b>Contact:</b> 24/7 crisis support line 0800 2266 94 Email: <a href="mailto:support@hvsash.org.nz">support@hvsash.org.nz</a></p>
	<p><a href="#">START</a> provides counselling and support for people who have experienced sexual violence and other trauma.</p> <p><b>Contact:</b> Phone 03 355 4414 Email <a href="mailto:admin@starthealing.org">admin@starthealing.org</a></p>	<p>See Toah-NNEST for information about national and local support services. Toah-NNEST Te Ohaakii a Hine-National Network Ending Sexual Violence Together is the national network of those providing specialist services for sexual violence prevention and intervention</p> <p><a href="http://toah-nnest.org.nz/get-help/find-help">http://toah-nnest.org.nz/get-help/find-help</a></p>
Support for men	<p><a href="#">Better Blokes</a> provides support to men recovering from the consequences of sexual abuse at any time in their lives. Peer groups are open to men after an initial meeting with a peer support facilitator.</p> <p><b>Contact:</b> Auckland office: 09 889 2553, mobile 021 174 9252 Email <a href="mailto:manager@betterblokes.org.nz">manager@betterblokes.org.nz</a></p>	<p><a href="#">Male Support Services</a> support men who have been through sexual, physical, mental, emotional or domestic abuse experiences.</p> <p><b>Contact:</b> Confidential crisis line 0800 677 289 Phone 07 858 4112, mobile 027 441 4749 Email <a href="mailto:mssatw@xtra.co.nz">mssatw@xtra.co.nz</a></p>
	<p><a href="#">The Male Room</a> offer practical advice and support for men going through a tough time.</p> <p><b>Contact:</b> Phone 03 548 0403 Email <a href="mailto:pchapman@ts.co.nz">pchapman@ts.co.nz</a></p>	<p><a href="#">Male Survivors Canterbury</a> support men that have experienced sexual trauma in the Canterbury region.</p> <p><b>Contact:</b> Phone 03 365 9000 or text 022 302 4966 Email <a href="mailto:survivor@canmen.org.nz">survivor@canmen.org.nz</a></p>
	<p>MSSAT Otago provide support services for men who have been sexually abused.</p>	<p>The Road Forward Trust (<a href="http://www.theroadforward.org.nz/">http://www.theroadforward.org.nz/</a>) offer free</p>

	<p><b>Contact:</b>  Oamaru office: Phone 021 106 4598  Email <a href="mailto:mssatoamaru@outlook.com">mssatoamaru@outlook.com</a>  Dunedin office: 021 198 7878  Email <a href="mailto:mssatdunedin@gmail.com">mssatdunedin@gmail.com</a>  Invercargill office: 021 261 3999  Email <a href="mailto:mssatinvercargill@gmail.com">mssatinvercargill@gmail.com</a></p>	<p>peer support to men who have experienced sexual harm.</p> <p><b>Contact:</b>  Phone: 021 118 1043  Email: <a href="mailto:support@theroadforward.org.nz">support@theroadforward.org.nz</a></p>
	<p><a href="#">Male Survivors Aotearoa</a> provide a list of services that support male victim/survivors of sexual violence and have a range of online <a href="#">resources</a>.</p>	
<b>Māori support services</b>	<p><a href="#">Korowai Tumanako</a> offers support to iwi, hapu and whānau who have experienced sexual violence.</p> <p><b>Contact:</b>  Phone 027 422 6282 or 027 370 2091  Email <a href="mailto:korowai@korowaitumanako.org">korowai@korowaitumanako.org</a></p>	<p>Tu Wahine Trust offer kaupapa Māori counselling and therapy for survivors of sexual violence.</p> <p><b>Contact:</b>  Phone 09 838 8700  Email <a href="mailto:admin@tuwahine.org.nz">admin@tuwahine.org.nz</a></p>
	<p><a href="#">Te Puna Oranga</a> offers confidential counselling and support specialising in sexual harm.</p> <p><b>Contact:</b>  24 hour crisis line 0800  Phone 03 381 8372  Email <a href="mailto:info@tepunaoranga.co.nz">info@tepunaoranga.co.nz</a></p>	<p>A list of individual Māori counsellors can be also found at <a href="#">TOAH-NNEST</a></p>
<b>LGBTQIA+ support services</b>	<p><a href="#">RAINBOW Youth</a> support queer and gender diverse youth in New Zealand.</p> <p><b>Contact:</b>  Phone 09 376 4155  Email <a href="mailto:info@ry.org.nz">info@ry.org.nz</a></p>	<p><a href="#">OUTline</a> offer confidential and free support to LGBTQIA+ people</p> <p><b>Contact:</b>  <b>Phone 0800 688 5463</b></p>
<b>Other general support</b>	<p><a href="#">Family Planning</a> provides sexual and reproductive health information, clinical services, education, training and research. Visits are free to those under the age of 22, or community service cardholders.</p> <p><b>Contact:</b>  Phone 0800 4636 5463  Email <a href="mailto:national@familyplanning.org.nz">national@familyplanning.org.nz</a></p>	<p><a href="#">Victim Support</a> offer support for victims of crime and trauma in New Zealand.</p> <p><b>Contact:</b>  Phone 0800 842 846  Email <a href="mailto:nationaloffice@victimsupport.org.nz">nationaloffice@victimsupport.org.nz</a></p>
	<p><a href="#">Women’s Refuge</a> are an organisation specifically for women and children and offer support for people going through family violence.</p> <p><b>Contact:</b>  24/7 Crisis line 0800 733 843  Email <a href="mailto:info@refuge.org.nz">info@refuge.org.nz</a></p>	<p><a href="#">SHINE</a>: is a national family violence hotline, 24 hour crisis and advocacy for victims of family violence, a stopping violence programme for abusive people and a Child Crisis Team.</p> <p><b>Contact:</b>  Phone 0508 744 633  Email <a href="mailto:enquiries@2shine.org.nz">enquiries@2shine.org.nz</a></p>



	<p><a href="#">NetSafe</a> provides cyber safety education and information/support on a wide range of safety issues on the Internet.  <b>Contact:</b>                  Phone 0508 638 723                  Email <a href="mailto:queries@netsafe.org.nz">queries@netsafe.org.nz</a></p>	<p>Shakti provide culturally sensitive services by ethnic women for ethnic women of Asian, African and Middle Eastern origin.  <b>Contact:</b>                  24/7 crisis line 0800 742 584</p>
	<p><a href="#">Youthline</a> aim to support young people in crisis situations or who may need some help and guidance.  <b>Contact:</b>                  Phone 0800 376 633 or text 234                  Email <a href="mailto:talk@youthline.co.nz">talk@youthline.co.nz</a></p>	<p><a href="#">Elder Abuse</a> offer advice and support to those over 65+.  <b>Contact:</b>                  Phone 0800 32 668 65</p>
	<p><a href="#">Age Concern</a> offers support services to people over 65+.  <b>Contact:</b>                  Phone 04 801 9338                  Email <a href="mailto:national.office@ageconcern.org.nz">national.office@ageconcern.org.nz</a></p>	<p><a href="#">The Prostitutes Collective</a> is an organisation run by sex workers for sex workers and can help you get appropriate support.  <b>Contact:</b>                  Phone: 04 382 8791</p>
	<p><a href="#">The Victims Code</a> also sets out how you can expect to be treated when you are the victim of a crime.</p>	
<p><b>Support for people with harmful sexual behaviours</b></p>	<p><a href="#">WellStop</a> is a community-based organisation that offers assessment treatment services to adults and young people who have engaged in harmful sexual behaviour.  <b>Contact:</b>                  Phone 04 566 4745                  Email <a href="mailto:enquiries@wellstop.org.nz">enquiries@wellstop.org.nz</a></p>	<p><a href="#">SAFE Network</a> works with people who have problematic or concerning sexual behaviours.  <b>Contact:</b>                  Phone 09 377 9898                  Email <a href="mailto:help@safenetwork.org.nz">help@safenetwork.org.nz</a></p>
	<p><a href="#">Korowai Tumanako</a> offers support and clinical treatment to iwi, hapu and whānau who have participated in harmful sexual behaviour.                   Email: <a href="mailto:korowai@korowaitumanako">korowai@korowaitumanako</a></p>	<p><a href="#">Stop</a> is an intervention service for adults and adolescents who have engaged in harmful sexual behaviour. They're based in Christchurch, Nelson, Dunedin and Invercargill.  <b>Contact:</b>                  Christchurch office: 03 353 0257                  Email: <a href="mailto:info@stop.org.nz">info@stop.org.nz</a></p>
	<p><a href="#">Te Puna Oranga</a> offers confidential counselling and support specialising in sexual harm.  <b>Contact:</b>                  24 hour crisis line 0800                  Phone 03 381 8372                  Email <a href="mailto:info@tepunaoranga.co.nz">info@tepunaoranga.co.nz</a></p>	

